

ACES TERRIER

THE ASSOCIATION OF CHIEF ESTATES SURVEYORS & PROPERTY MANAGERS IN THE PUBLIC SECTOR

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ACES TERRIER

The Journal of ACES - The Association of Chief Estates Surveyors & Property Managers in the Public Sector

EDITORIAL

Betty Albon

Welcome to the 2019 Autumn Terrier. And doesn't it feel like autumn?

That was not the case for the very successful ACES' National Conference, held on the Isle of Wight. We were treated to splendid weather, excellent venues, a whole range of speakers, and a lot of support from our private sector friends and colleagues. But you can read all about it in this issue – although that's nothing like the experience of actually attending a full 2-days of learning and networking. Make a date now in your diary for 2020 Conference in Greater Manchester on 24-25 September. The conference flyer is already posted on the ACES' website, so take a look www.aces.org.uk

I'm pleased to report an interesting range of topics of interest in this issue. Probably of note are 3 complementary articles about telecoms – context, the new code, and risks for landowners. I found them extremely interesting, if somewhat concerning for land owners. There is a variety of topics for practitioners, just take a look down the contents page and I'm sure there's something for you and your colleagues.

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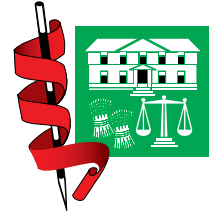
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NATIONAL CONFERENCE, ISLE OF WIGHT

“Improving lives through property”

Peter Gregory and Betty Albon

This report is a brief summary of the presentations made at ACES Conference, held at The Yacht Haven in Cowes, Isle of Wight. More detailed articles of the presentations will be included in this and subsequent editions of ACES' Terrier. My sincere thanks to Peter Gregory, ACES' Vice President, for providing the majority of this account.

Opening address

President, Graeme Haigh opened the 2018 National Conference by welcoming delegates to the event to show that 'property changes lives'.

Keynote address

Councillor Dave Stewart, Leader of Isle of Wight (IoW) Council, welcomed delegates to the island. The IoW asset base is wide and varied and includes income-generating investments in Kent, Hampshire and Southampton, working in partnership with Portsmouth Council. The council looks to achieve £4.5m savings for each of the next 3 years: £80m has already been saved, assisted by a rent roll of £1m p.a. from £35m capital spend.

The regeneration team is actively engaged in a number of projects, large and small, including Newport Harbour, the historic towns of Newport and Ryde, and Venture Quays in East Cowes. Other initiatives include attracting new businesses to retain younger people on the island (Rangefinder House), extra-care developments as alternatives to hospitalisation, rural housing schemes and infrastructure.

Chris Ashman, Director of Regeneration, IoW added meat to Councillor Stewart's outline of initiatives, adding that to deliver the programme, the property team has developed skills central to successful regeneration, to be collaborative, commercial, innovative, pro-active, strategic, and client-focused [Ed – Chris Ashman's presentation will form a more detailed article in a future edition of Terrier].



The Place Panel

This was the first of 4 panel sessions. The session commenced with a joint presentation from 2 panel members – Rick Lawrence, Places for People, and Nicholas Cook, Surrey County Council (SCC) which have formed South Ridge Development LLP. It has been created as a joint venture partnership [Ed – this presentation will form a more detailed article in a future edition of Terrier].

SCC has a community vision bringing together people and place, to give them a great start in life, healthy, achieving their potential, all contributing, no one left behind. Its asset strategy looks for growth, management, income, rationalisation, surplus land, and a review of non-operational assets.





The characteristics of the LLP are a 50/50 partnership; SCC owns the land and provides it at nil value, with the expectation that SCC will receive a return. SCC provides the framework with a brief – the JV then brings forward maximised value, in terms of financial and social outcomes. Income is reinvested into council services. Staffing resources are provided by Places for People. Long-term funding can come from various sources. The partnership is for 15 years from 2018; to date, 15 sites have been transferred, with the objective of providing 550 homes over 5 years. Other uses will be incorporated, and the LLP may acquire adjoining sites where appropriate.

Toby Bennett, Commonplace, and Ken Glendinning, Homes England (HE) followed with outlines of the role of digital tools in designing solutions, but always with people at the heart; HE supports the development of housing and infrastructure, particularly for large sites. It is looking to bring forward central government assets, use strategic partnerships, including Places for People, using government resources to accelerate delivery. It collaborates with Public Health England as part of OPE projects.

Questions

Does place-making drive value? Place making has strong value, evidence at Northstowe, Cambridgeshire, where infrastructure of £15m is planned for a secondary school, open spaces and parks. Such investment up-front drives a premium both for investors and adds to the attractiveness of the residents' experience.

Place making is a means of driving efficiencies and costs, moving away from

the single asset approach to create multi-functional assets: people relate to 'place' to create a sense of uniqueness and identity, which also helps to raise asset values.

Is there a danger of creating identikit areas? This can be avoided by locally driven master-planning and evidence based needs, involving the local community. Feedback can be used to adjust design. Small changes can make a big difference.

How will climate change affect place-making? HE is committed to sustainable development, respecting the environment. It works with Friends of the Earth and other organisations, by using master planning, landscaping, less reliance on vehicles (investment into cycle ways and alternative forms of transport), and modern methods of construction. Commonplace has recently launched a climate change project with Camden Council and has produced, in consultation with businesses, 18 ideas to be taken forward by the council to create a more sustainable future.

Urban regeneration corporations as alternative structures? It was felt that development corporations work in the right place, but cannot replace a good local authority working with its communities, notwithstanding undue political involvement at times. Alternative vehicles, such as new town structures can be effective.

The data panel

Led by Lesley Males of Datscha, Andrew Waller, Remit, and Mark Jenkinson, Siemens, gave brief introductions to the meaning of big data, before discussing various data challenges and applications. Big data is that which cannot fit into a spreadsheet and

needs a data scientist and analyst to make sense of it. Most property management systems are not "big data" and the property industry has been slow to use it. Siemens is seeking to apply data in the urban realm; by 2030 there will be more data than stars in the cosmos; only 0.05% of data is being analysed and only 15% of assets are connected to data sources. Soon, big data will be used in energy and transportation systems.

Non-sharing of data is one of the biggest issues in the property industry. Data has a value, so private organisations wish to be paid for providing it. Intellectual advantage is taken away if data is shared, but data analysis firms are slowly taking away private control. There are efforts to overcome the problem by the introduction of shared databases, eg Radius, the agents' database. The potential of access to other's data encourages sharing. However, challenges occur because of asset identification (eg varying addresses for the same properties).

The RICS has a role to improve different skillsets such as data analysts. We need to look to change our property teams, to include surveyors able to interpret/police data (so it remains anonymous), where there are sensors in new and retrofitted older stock. Manchester was used as an illustration of a Smart City, where 16 buildings are linked and share excess energy.

How can big data help sustainability and environmental issues? There is great potential to digitise images and use them for scenario testing. It is used effectively in Helsinki: flood data can be mapped and modelled. Microsoft is currently ploughing in resources in land and building assets, to become a world data leader. Is data collected with the permission of the clients, eg trading





patterns are being tracked and predicted in shopping centres and high streets – but for whose benefit? Is there a violation of General Data Protection regulations?

Leadership

Colonel Lucy Giles was appointed Commander of New College, Royal Military Academy Sandhurst (RMAS) in 2015 and since 2018, she is now President of the Army Officer Selection Board in Westbury. The theme of her presentation was leadership development.

Using her own experiences, Lucy drew conclusions on the ingredients of effective leadership. From studying biology at Exeter University, she joined RMAS in 1992 and learned the importance of teamwork, particularly the shared experiences of highs and lows. From her postings to the newly formed Royal Logistic Corps, in Germany, UK and South Africa, and deployment to Bosnia, East Timor and Sierra Leone, important lessons were: get out from behind your desk; have humility as leaders; be comfortable with uncertainty; be representative of your organisation; embrace working with diverse organisations; understand relationships and build trust; and use support networks. The latter few were experiences Lucy gained when she commanded 47 Air dispatch Squadron in Iraq and Afghanistan, and also when she was involved in the clean-up

operations from the UK foot and mouth outbreak, when 2m livestock were burnt at one airfield.

A key value and attribute of leadership is to take responsibility, influence, and set an example. Of vital importance is to be in line with the organisational values: if they are not, you need to review whether you are in the right place. You need to live by these values: a divergence will cause stress. As a leader, you are the standard and moral compass. Lucy is often to be seen litter picking, not just walking by. You need to achieve a balance between the 3 elements of leadership - individual, team and task. An unbalanced focus affects performance.

A summary – lead by example; encourage thinking; apply reward and discipline (saying ‘thank you’ makes you feel valued, and we don’t do this enough); demand high performance; encourage confidence; recognise individual strengths and weaknesses; and strive for team goals.

Lucy left delegates with some food for thought for effective leadership: diversity is a strength - since 2015 there have been mixed platoons, so in the army, we ‘train as we fight’; maximise talent – allow flexible and part-time working to nurture potential; have a continuous improvement mindset – RMAS has just been awarded Outstanding by Ofsted.

And for you - make a difference; be real; do the right thing – not for praise; live the values of the organisation; and importantly, get small things right. [Ed - Colonel Giles’ presentation will form a more detailed article in a future edition of ACES’Terrier].

People panel

Lucy joined the People panel, which was opened by Julia Tybura, NHS Workforce.



This was an interactive session, to focus on the theme of the conference – ‘Improving lives through property’. Delegates were encouraged to reflect on what had already been presented, and to consider what the challenges will be in the next 20 years for people and our property portfolios. It began with 2 short presentations from panel members, followed by sharing thoughts using ‘post-its’.

Mark Southgate, Ministry of Building, Innovation and Education made some opening comments, emphasising that we are not building enough homes – there has been a collapse in house-building and current targets are unachievable without significant investment. Builders are not talking to customers, who are settling for less than best. There has been unprecedented change, but not in the construction industry, which needs to learn from the knowledge base of major manufacturers, eg the car industry. Construction has a poor image; it is not attractive in terms of employability and there is a crisis looming for the workforce. One particular area is to nurture a greater interest in design, eg, among children, who are unaware of built environment careers, but have uninhibited imagination.

Sara Cameron, Norfolk County Council, outlined thought provocation at the RICS [Ed – see Sara’s article in 2019 Summer Terrier]. In the face of global challenges and loss of institutional trust, there is a need for smart dynamic places that can attract talent.

How are we coping with change? Our profession can steer the built environment in the right direction, but are surveyors ‘fit for purpose’? It is critical that we understand data and artificial intelligence. Our surveying skills are no longer about bricks and mortar, but about the softer and technical skills revolving around people. Practicing



surveyors must embrace lifelong learning – how do we use talent to help people, place and prosperity connect?

Health and social value panel

The session, chaired by Jenny Coombs of Local Partnerships, was preceded by a joint presentation by 2 of the panel members - Richard Webb of Barton Willmore and Dr Phil Askew of Peabody [Ed - this presentation will form a more detailed article in a future edition of ACES' Terrier]. Richard outlined The Greenkeeper software system that measures "social value" – an on-line tool to value green infrastructure – "maximising public benefits and outcomes that support the public good". He questioned how do we put a monetary value on social benefit? Green spaces are linked to health benefits – can health benefits be valued? 120 minutes'

dosage of green space each week is ideal. However, the collection of data on all parks/ open spaces enables comparisons with one another, providing monetary wellbeing and physical health value. Crossway Park in Thamesmead is accordingly valued at £2m. The Greenkeeper software has various levels of interrogation, but there is no set decision yet on how to market it.

Thamesmead was a 1960s development below Woolwich, seen at the time as a good quality housing solution. History has not matched that image. Peabody acquired 65% of the whole development in 2014. It is aiming for a 'whole place' approach to its regeneration, which will revitalise the built environment, and capitalise on the 150 ha of natural spaces to create 'green and blue infrastructure'. Peabody's approach includes being child and family friendly – making people feel safe, and getting the schools into the landscape.

Tim Chapman of Public Health England identified that there is potential for £30bn savings to the health and social care system if modifiable risk factors of inactivity and poor diet are changed. NHS can only impact 10% of current health issues, and the remainder must come from the environment and other sources. Local authorities have an important role to play and must seek out public health teams to contribute, eg whole system approach to obesity (there is 50% difference in childhood obesity between deprived and non-deprived areas). At the moment, few health teams are aware of the work of LA estates teams. Other priority areas are to reduce loneliness and isolation.

Rupert Wainwright, Operations and Systems Advisor to the NHS, commented that most hospital beds are taken by the frail and elderly, where rapid physical and mental deterioration can shorten lives; their ultimate survival always depends on a healthy and safe environment to live in, with family, friends and familiar surroundings and a home design that extends the length of the viability of living at home. However, physical adaptations to homes can take too long. The housing stock should allow downsizing to be easy.

Jonathan Gibson of Avison Young believes that we need to achieve property outcomes linked to a social value asset strategy. Access to green space can save £2.1bn to the national economy. For any development or regeneration scheme, there should be a socio-economic evaluation to gauge local understanding. There is potential to give social value to void/underused space, increasing wellbeing, health and comfort. He cited a Portsmouth 1970s tower block where Passivhaus improvements had eliminated fuel poverty and cut bills by 90%.

Ben Silsby of Wilmott Dixon believes that we need to measure the full costs of ownership by taking social value into account in every project. For example, to deal with knife crime in Croydon, an academy was set up to bridge the skills gap between school and employment; in so doing, it was able to keep 80% of young people away from gangs.

The ensuing discussion ranged across balancing Passivhaus capital costs and revenue savings between landlords and tenants, and the importance of applying a whole life model; improving public spaces to avoid dysfunctional behaviour; tackling social exclusion through accessible sports facilities; and incentivising developers to invest in livable built environments.





Building a team to win the Americas Cup

David Williams, Chief Executive of Portsmouth City Council (PCC) rounded off the first full day of the conference with a tale of optimism and tenacity: how do you galvanise a complex political organisation to grasp an opportunity, and prevent others grabbing it before you? [Ed – this presentation will form a more detailed article in a future edition of ACES'Terrier]. PCC succeeded in acting quickly to bring the Ben Ainsley base to Portsmouth, to put it on the global stage, attract footfall and funding and enhance highly skilled employment.

But how did the council manage the risk and uncertainty, and galvanise trust and speed? When Ben Ainsley was looking for a UK base, PCC suggested Portsmouth. Timescales were tight – Jan 2014 to June 2015 to achieve planning and listed building permissions, and obtain vacant possession, to build out the site. The final outcome was a high tech, high spec building, The Camber.

PCC owned part of the site, which was a former coal-stocking yard. PCC had to relocate tenants and satisfy local residents, who viewed the project as at great cost and risk. Tenants were already aware of the potential for redevelopment and the council's property team, led by Ann Cains, managed the site with the possibility of achieving vacant possession. It still needed much negotiation to get tenants on board, although some were keen to see it come to fruition. Negotiations were undertaken on a CPO basis. Vacant units owned by PCC elsewhere were used for relocation, but some skills-related tenants were relocated close by.

Ineos, a privately-owned UK multinational chemicals company, headed by Sir James Ratcliffe, was prepared to put in £100m. PCC received a Regional Growth Fund grant of £7.5m, supplemented by council resources of £1.4m. The building subsequently cost £21m, with a book value of £12m and an asset value of £6.5m. All objectives were achieved on time and budget.

Delegates considered the question of s123 and best consideration. How do you properly value a vision? A lot of work was done with the s151 officer and auditor. A change in administration meant it was essential to have high accountability standards. There have been many spin-offs, including a contract with Emirates for advertising on the Spinnaker Tower. Also, a huge amount has been done with engaging local children, including hands-on involvement of Ben Ainsley.

Bringing brownfield sites back to the community

David Asker, an authorised High Court Enforcement Officer, prefaced his talk with "I'm your worst nightmare!". He highlighted the involvement of the HCE Group in recovering possession of property in a number of situations, including trespassers, compulsory purchase, commercial premises non-trespass, peaceable re-entry (leasehold commercial premises) and trespassers on land [Ed – for a full account of roles and responsibilities, see David's presentation in 2018 Asset – Cambridge available on the website].

David illustrated his talk with some high-profile cases, including the Grow Heathrow eviction [Ed – featured in 2019 Spring Terrier],

where Health and Safety (H&S) issues were of paramount importance in removing protestors from 34m of tunnels, and lock-ons to a scaffolding tower. Other cases involved protestors well-known to HCEG wearing pink fluffy handcuffs as a gesture of protest, and chopping down a tree to which a protestor was handcuffed, rather than removing the man! But in seriousness, H&S legislation means extensive costs. HCEG is required to act in a safe and proportionate way. [Ed – see this issue of ACES'Terrier for David's article on CPO].

Legal update

Antony Phillips of Fieldfisher gave a resume of caselaw of importance to property surveyors over the last year [Ed – see full article in this issue of ACES'Terrier]. The areas covered were overage, specific performance, s84 Law of Property Act 1925 modifying and discharging restrictive covenants, and frustration, finishing with mention of the s21 Housing Act 1988 consultation concerning residential leasehold reforms.

For each topic, Antony covered the principles, factors and key features, the facts of particular caselaw, and lessons to take away from the rulings.

Relational partnering

Adam Cunnington of Public Sector plc (PSP) is involved in 19 partnerships nationwide, including the Isle of Wight. The Portsmouth City Business Group was the initial project, with the objective of bringing investment into the area.

PSP is passionate about helping the public sector achieve more, by offering complementarity to achieve councils' aims. The option PSP can offer is to create a



partnership (not a LLP). It is involved in the activities of funding, land promotion and regeneration, strategic asset management, and broader flexibilities which local authorities may not have. Projects are wide-ranging, including a housing model, which is the focus of the IoW partnership – looking to achieve the development of 1,000 energy and carbon efficient homes which the market would be unlikely to build, and adult care and health opportunities, accompanied by revenue savings, capital receipts and income.

Adam illustrated PSP's activities through a case study – Winsford Industrial Estate, Cheshire West and Chester, whose partnership aim was to repurpose a non-operational estate, by disposing of and updating poor leases. The estate had been underperforming for many years, but had never reached the council's priority list. It also included 67 acres of unallocated land. Development was now needed at pace to accommodate growth. The challenge was the viability gap. However, new occupiers became the catalyst for further development.

The partnership was able quickly to bond and create an environment of trust, which enabled meeting tight timescales in obtaining planning permissions for infrastructure, not constrained by council processes. Grant funding from the LEP was achieved (£3.8m LEP, £1.2m council). As a result, existing jobs were secured, a new major company was installed by January 2019 in a new unit of 125,000 sq ft on 17 acres of the newly serviced land, creating 300 jobs and £20m investment. In turn, this increased the ability to attract future investment, partly by recycling funds to develop the remaining 50 acres. It is estimated 1,500 new jobs will be created on the estate.

One advantage of the partnership is that OJEU procurement is not necessary. Local authorities can set up partnerships under existing powers; proven legal documents are quickly adaptable. There are no hidden costs in projects (eg fees), there is an open book accounting basis with an agreed profit split.

ACES Award for Excellence – East Renfrewshire Council

Alan Stewart, Estates Team Leader at the council, gave an update and expansion of the award-winning project [Ed – for details of issues, mechanics, design and site development, a full article appears in 2018 Summer Terrier, written by Alan's colleague,



Raymond O'Kane, now retired]. The ACES Award was for the development of the Faith Schools' Joint Campus in East Renfrewshire.

The initial consultation involved the children about what sort of school they wanted. [Ed - the slide behind Alan shows the sketched 'selfies' of these children]. Consultation was subsequently widened and a surprising level of consensus resulted on the shared facilities wanted, but with separate schools' identities, entrances, iconography and dietary requirements, which meant separate classrooms and kitchens.

The schools opened on time, which was achieved due to the level of co-operation, trust and friendship between the 2 faith groups. One unexpected outcome was that Muslim parents also chose to send their children to the 2 schools, having a preference for faith over non-denominational education.

RICS: Practical ethics

Sara repeated her June presentation to ACES Eastern Branch on formal ethics and professional conduct [Ed – see 2019 Summer



Terrier]. She highlighted ethical dilemmas and outlined recent RICS mandatory standards including money laundering.

How to manage MEES compliance for commercial property

Stephen Preece of arbnco outlined the MEES regulations and range of software tools available for meeting and improving MEES bands [Ed – see 2018/19 Winter Terrier for details of MEES and data measuring; see also 2019 Spring Terrier for Stephen's article on using sensors to manage indoor environments]. He highlighted his talk with case studies which considered the costs and benefits (capital and revenue) of various options to improve ratings.



Identifying opportunities for developing car parks

Ian McGuinness, Head of Geospatial Research at Knight Frank, explained the importance of digital mapping on a global scale, and the range of clients who have a vested interest in using this analysed data, for example, land ownership and under-developed sites, Land registry and Ordnance Survey data matching; valuation and market performance; viability appraisals for development in alternative locations, such as pricing retirement home schemes against local household incomes.

Geospatial methods and data can be used to identify public sector land ownership and identify lateral relationships, to help organisations improve operational requirements, eg work done for the London

Ambulance Service, identifying all public sector land in London.

Ian outlined a recent government-commissioned study to map the extent of public car parks and assess their suitability for redevelopment. [Ed – see the 'Car Parks for Homes' report in this edition of ACES' Terrier].

A new model for property asset management

Andrew Pollard of Place Partnership refreshed his presentation at ACES Conference in Leeds in 2017 [Ed – see 2017 Asset, Leeds]. Place Partnership (PP) is a public/public partnership and is a mutual organisation. It can make more skill sets available and savings through economies of scale. Andrew outlined the projects achieved since 2015 when there were 6 founding authorities in the West Midlands. Supported by the Cabinet Office, there are now 250 clients, operating largely under the OPE programme.

Local taxation: a fairer system for all

Roger Messenger, Senior Partner at Wilks Head & Eve considered the question of whether it was possible to have a fairer system of local taxation? Has NNDR had its day? [Ed – Roger's presentation will form a more detailed article in a future edition of ACES' Terrier].

Where do the problems lie? The 2 main components are NNDR and Council Tax. The government has handed collection responsibilities to local authorities. Rate poundage is the main problem – 50p/£ in 1990; 34.8p/£ now. While there have been revaluations, the 1988 Act stipulates that as much funds must be raised as under the previous valuation. Reliefs are therefore supported from the collection of tax from remaining taxpayers. In contrast, the Council tax has a 28-year old tax base and there would be much tabloid publicity if a revaluation was proposed. Local authorities are capped in how much they can collect.

Legislation is untidy and unhelpful. There are issues with the Check Challenge, Appeal system [Ed – see Roger's article in 2018 Summer Terrier] and local authorities are unable accurately to forecast losses on appeal, as backdated refunds may be payable over many years; businesses cannot forecast revenue outgoings.

Can the system be made fair, say by having a 'basket of taxes'? Options might be to change the domestic rate poundage; or to

tax ownership, not occupation; or have a sales tax which would catch internet retail companies, eg Amazon; Corporation tax can be avoided.

There is little pressure for government to make the changes – low NNDR payers have been taken out of the system, so the payers most likely to be concerned are not now complaining. The psyche of businesses is that they will only challenge if taxes increase above 30% of income.

Resource Recovery Park – design and build

Natasha Dix, Waste and Recycling Officer, identified the IoW 'Call for Action', to be more sustainable, and to be leaders in technology, resource recovery and recycling. In 2011 the council had sold its waste assets to the expired contractor of waste services. Without its own plant, the costs to transfer waste to the mainland were significant, and some waste travelled as far as Cambridge.



The council resolved to invest in sustainable solutions – 2016 saw an improved Afton Marsh Recycling Centre; 2017 an expanded Lynnbottom household waste and new commercial waste recycling centre; a new mechanical treatment plant will be completed in Winter 2019; and in Spring 2020, a new energy from waste plant, at a cost of £58m.

The Forest Road Waste Recovery Park will house the full collection fleet; the mechanical treatment plant will deal with 80,000 tonnes p.a. The huge building is under construction, containing sophisticated plant and equipment to act as a dual treatment plant

dealing with recycling and residual waste. Non-recyclable elements will be used in the planned energy from waste plant, using 40,000 tonnes of waste p.a., which will power the 3 prisons on the island.

The site had complex environmental issues to be resolved, including extensive excavation into contaminated ground, to create the waste bunkers. Although there were residents' concerns over emissions, there have been no complaints received through the development process.

The circular economy in cities

Helena O'Rourke-Potocki of the Ellen McArthur Foundation identified the choices we have, as 'Take – make – dispose'. Circular economics keep materials and products in use. This requires everyone to play a role.

Cities are hotspots of emissions. While they produce 85% of GDP, they also consume 75% of resources, emit 80% of greenhouse gases, and produce 50% of solid waste. Currently they face particular challenges of 1bn new homes required by 2025 due to sub-par housing, which leads to increasing congestion and poorer air quality (2-5% of the global GDP is the annual cost of congestion; 90% of European residents live at harmful levels of air pollution); 20% of municipal budgets are spent on waste.

Missed opportunities can be identified. Cars are parked 92% of the time and only 1 in 5 seats are used; European office space is under-used by 50-65%; and 80% of household items are used less than once per month. That is why circular economics can help to meet the challenges: buildings, mobility and products are inter-linked and co-dependent.

How can the environment be built and the circular city generated? Firstly,



urban structures need to be planned to influence building form, design and travel. For example, Barcelona's design has reduced space requirements and air pollution levels. Secondly, designing for people. The needs of urban dwellers are changing: building design needs to be adaptable and flexible, eg 10% of people downsize when families leave home. Singapore grows green spaces on buildings which helps to reduce pollution, and has health benefits. Thirdly, build using new techniques such as modular design, which saves time and resources. There are opportunities to use designs that can be dismantled and reassembled. Fourthly, be more flexible about access having priority over ownership: office spaces and houses are under-used: why not embrace the concept of the "hoffice" – homes rented to small businesses during the day? And finally, ensure that there is proper operating and maintenance, to maintain the life expectancy of built stock. What about renting plant and machinery?

Heritage and technology

Sarah Chatwin, Deniz Beck and Daniel Long of ERM presented a well-illustrated talk: "Heritage assets in the public realm – opening your eyes to a technology led opportunity" [Ed – to do justice to the many illustrated case studies, a more detailed article will be featured in a future edition of ACES/Terrier].

The theme of Deniz' presentation was to consider if technology and heritage are good bedfellows. She specialises in fortification projects. Conversion is the most sustainable way of building and traditional construction is often the most sustainable building method. Case study buildings were Spithead

Fort, one of 70 forts protecting The Solent, now repurposed for hire; Goldenhill Fort, Isle of Wight, now 18 high-end apartments; Hotwalls, Portsmouth, repurposed to artists' studios and restaurant in the former gun embrasures; Isle of Wight Zoo, a former fort and now an events venue and education space; and Fort Cumberland, Portsmouth: casements converted into business units, including a charity HQ, artists' incubation units, and a distillery.

How can technology help? Mankind has always built, and technology has always been used, changed and developed. Some recent technological tools are 360-degree cameras, drones, Point Cloud scanners, virtual reality, mixing a computer generated world with the real world to communicate a design concept, 3D printing and creating computer-generated models. Many of these tools are good for stakeholder engagement and early conceptual work.

How can this technology be used and integrated into heritage assets, to enable heritage conservation? There is a massive opportunity to help custodianship through technology, eg progressive erosion can be captured for risk management. It can inform and assist with alterations, refurbishments, audits, inspections, and statutory compliance. There is also potential for the insurance industry to use the technology for high-value structures. It may become mandatory to use it to ensure that buildings can be re-created, eg to help rebuild Notre Dame. However, technology is at a challenging price-point, so it is not fully accessible for general use. However, the capabilities, especially of Point Cloud, are so effective at providing data that cannot be collected in any other way, that it may be cost-effective for many buildings.

Art ecology: shaping better places

Ian Boyd, Director of Artecology, rounded off the conference with "A short guide to building natural and social capital (why public land and buildings have never been more important)." [Ed – Ian's presentation will form a more detailed article in a future edition of ACES/Terrier].

Art Ecology is about biodiversity in the built environment. The IoW is a "biosphere" of relevance and importance but the principles can be applied to any land or building to add value. Generally, interest in making places self-sustaining has declined. Nowadays, public realm is the place where it is most likely to happen. We have forgotten how to build good habitats for people and how to produce design-led public health.

Ian identified a 9-point plan "Shaping Better Places" of techniques to think about to increase natural, social and cultural capital. These included for natural capital: the easiest thing for the planted realm is to "make it edible" – much landscaping is ecologically useless; some species depend upon our built environment, eg swifts, which need nesting and roosting spaces; perforations are valuable, as holes to support wildlife. Allow plants to colonise buildings – removing ivy, adds costs and removes wildlife benefit, when it can be planned and maintained in a way that can sustain life; install green roofs (green walls are expensive to maintain); stop "blasting stuff out of existence" eg moss will do less harm to a roof than cleaning it.

Social Capital - What makes a great space for people? The likelihood of keeping people there, or the "bump into effect", eg benches, public information, points of interest; new habitats in blank walls and features give space an identity. We need to make spaces less hostile for humans and wildlife. The power of public space, working with volunteers, can engender partnership and collaboration; consider meanwhile uses of idle public assets to make them worthwhile spaces again.

Cultural capital includes getting communities involved in learning skills, to gain a growing body of local knowledge, in order to sustain the value of the unique cultural character of their place.

Following a question from the audience, Ian emphasised the importance of the traditional role of many councils, to promote allotments, which are excellent havens for wildlife, as well as for 'human foraging' ie scrumping!





Next year's ACES' Conference will be held in the Science and Industry Museum, Greater Manchester on 24-25 September 2020

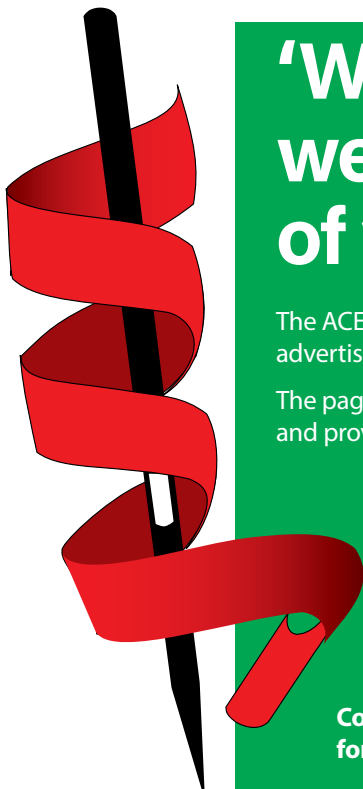
More photos of the 2019 conference can be seen on page 70.

President's closing remarks

Graeme closed the conference, which for many has been 2 full days and an evening. My idea for the theme of this conference was how to improve peoples' lives through property, and I think we've achieved this.

Thanks go to all sponsors for their valuable support of the conference, without which ACES would not be able to run. Thanks to all the speakers, and to some individuals: Neil Webster, Betty Albon and especially to Trevor Bishop. Thanks to our photographer Steve Collins, and also to Elaine Hawkins, Corporate Leadership Support Lead Officer in the Regeneration Team at the Isle of Wight Council, for her invaluable help throughout the conference.

With special thanks to our sponsors for their valuable support



'Why not use the ACES website for free* advertising of your job vacancies?

The ACES Jobs Page (open to all) on its website caters for member and non-member organisations advertising for public sector property posts. See www.aces.org.uk/jobs/

The page gives a summary of the available post with the details of location, salary and deadline and provides a link to the organisation's own website for further details and application form etc.

For a limited period, the Jobs Page will now be available to ACES member organisations to advertise posts **at no cost.**

You gain direct access to likely candidates already working in the public sector property arena with the expertise and experience that you are looking for.

*The rate of £100.00 for non-members applies but for a maximum of 4 weeks' exposure on the ACES website; this is still excellent value!!

Contact the ACES Secretary, Trevor Bishop MRICS, at secretary@aces.org.uk for further information.



THE SOCIAL ASPECT

ACES Conference, Isle of Wight 2019

Ann Bishop



After a relatively easy drive down from Lancashire and a very pleasant ferry journey, we made our way to the conference venue, the Cowes Yacht Haven. All the off-loading of the conference essentials and setting up of the stand completed, I wandered off to have a discussion about Poo with the guys setting up the Poo Museum stand. Who knew there was so much to learn?

We then travelled over to Shanklin to find our accommodation for the next 3 days. It felt like we had wandered onto the set of *Fawlty Towers*, but without Sybil and Basil. The public rooms were lovely and looked to have been recently decorated. The stairs creaked and were reminiscent of a film set in an old black and white movie. The sash windows rattled in the wind, but the glorious view chased any negativity away. The room was large, the bed comfortable, the linen of reasonable quality, with excellent, large and fluffy bath towels and that's where I will leave it.

We met up with the usual suspects and we all went in to dinner. The food was good and the service excellent. As usual the banter flowed and everyone was in good humour and looking forward to our tours, ably and efficiently sorted by Malcolm Williams.

After an excellent breakfast, car pooling was arranged, and we set off to Osbourne House. We, the 3 Anns and Elaine, soon became separated from the rest of the group as we were enticed by the Royal Children's Gardens and their shed of little wheelbarrows. Each child had been allocated their own plot but, on this day, all those years later, they were tended by the lovely Adrian who took time out to talk to

us and went with me to the Quince copse to pick a fruit for me, in order to settle a bet. I spent the rest of the trip explaining to various volunteers and staff that I hadn't stolen it and that I wasn't going to try to eat it!!

Our next port of call was the Swiss Cottage, which was an absolute delight, as was the little museum, despite its display of stuffed animals. We realised that time was running away with us when halfway through the main house, where we were entranced by everything that we saw, so we quickly headed off for a lunch of soup and cake, both of which were excellent. After lunch we moved back to the main house, where we were allowed to take a short cut to the nursery.

While looking around, one of the other Anns and I spotted a waxwork figure reminiscent of the long haired, drably attired men who tended prisons back in history. We both moved over at the same time to look at it, I raised my hand to touch it, at which point it moved!! Suitably embarrassed, we scarpered, re-joining the other two, hardly able to speak through our suppressed mirth. Visit over, photos taken, we made our way to the reception area to collect my phone which I had dropped en route, and which security had swiftly found.

We made our way back to the hotel to prepare for the renowned ACES Gala Dinner at the Royal Yacht Squadron. Due to road works, we were delayed in getting to the barracks and sadly missed most of the tour of the RYS castle, hearing only the final speech by Commodore David Hughes, the RYS resident historian [Ed – it was very informative and amusing].





Lovely walks to visit the duck pond and ancient church, view glass blowing, leather working, and much more. The farmers' market was excellent with an array of fresh foods, fruit gins, whiskeys and rums, and every other sort of enticing food imaginable. A lot of shopping was done before and after Malcolm gave us all our pocket money to buy our lunch. The food was good quality "pub grub", the company fantastic.

I have to say a personal, huge, thank you to Malcolm Williams for all the organisation, time and effort that was put into this trip, it was excellent.

We look forward to seeing you all "Oop North" next year.

To say that the surroundings and views were grand would be an understatement. We even got the perfect sunset. The musician on the lawn was excellent too.

The food, wine and no fuss service by the very young staff was beyond excellent, it was superb. After dinner drinks consumed, networking done, we made our way

back to our taxis and the journey back to Shanklin.

Up with the lark for the final day of the conference for working members, and preparation for another day at leisure for the social/retired/honorary members, with a visit to Arretton Barns. This place was a delight, with something for everyone.



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NATIONAL COUNCIL

Notes of ACES National Council Meeting 12 July 2019

Trevor Bishop MRICS, ACES Secretary

19 members attended the meeting, which was held at, and kindly hosted by, the University of York.

Karen Maddison gave an interesting and engaging presentation on the work undertaken by the University of York Estates Team, in a diverse environment comprising some 18,000 students.

President's report

The President (Graeme Haigh) reported on matters that he had dealt with since the last meeting. These included RICS liaison, the Municipal Journal's Innovation in Property and Asset Management Award [Ed – see Chris Rhode's article in this issue of ACES' Terrier], branch visits and the 2019 ACES Conference. The President noted the different approaches taken by branches at their meetings and hoped good practice could be shared. The President confirmed that he continued to enjoy his role as President and formally representing the interests of the public sector surveyors and property managers.

Full details of the matters covered by the President are contained within the Main Report produced for the meeting and posted on the website.

Secretary's report

The Secretary (Trevor Bishop) reported on matters arising during the period from the last Council meeting:

Membership – There had been a modest increase in total membership since the last report [Ed – see Membership information in the following report]. In terms of profile, the number of full members had increased slightly more than the increase

in the number of retired members.

Payment of membership subscriptions was approaching full recovery.

ACES website – Under the lead of Paul Over, good progress was being made on the website rebuild.

Website Jobs page - The initiative of providing the jobs page for free to ACES' members for a trial period had continued to generate a reasonable amount of interest. There had, however, been no interest from non-member organisations where the fee had been reduced to £100, following approval at the last meeting.

ACES Conference 2019 – The Secretary reported that, as in the previous year, a considerable amount of his time was now employed in assisting the President on the arrangements for the conference.

Other matters - The membership application form has been updated to a simple single page and to better comply with GDPR. The Secretary had been assisting lead officers as required on other ongoing matters, including implementing the priorities emerging from the Business Plan; ACES responses to consultations; supporting branch secretaries and chairs where there have been a number of personnel changes for 2018/19. The secretary also attended the Rural Branch meeting in May with the President.

Financial matters

The Treasurer (Willie Martin) reported on the finances of the Association and the latest budget position. With regard to the current account, in general terms this account is within the budgeted for parameters for the year. The Conference account reflected a very successful

2018 conference, with all income and expenditure now accounted for. In general terms it was expected that the accounts for 2018/2019 will show a reasonable surplus for the year.

The Treasurer reported on the proposed 3-year budget for the period 2019-2022. He reported on projections for key items of expenditure and income, and noted that there were pressures arising from increasing admin costs and the potentially high one-off cost of the website rebuild. In the absence of increasing national subscriptions, and assuming a reasonable profit made on conferences, there was a predicted deficit in the short-term with a potential, albeit small, surplus by year 3.

Membership subscriptions – The Treasurer proposed, in the light of the current financial health of the organisation, to keep national subscriptions unchanged for 2019/20. Council agreed to make this recommendation to AGM in November.

Terrier advertising for 2018

The Editor (Betty Albon) referred to branch submissions for the Terrier and branch secretaries would be asked to improve the levels of submissions.

The new front cover for ACES Terrier was displayed. There was general approval of the new heading and the changes to the internal layout. It was considered that the front page might benefit from some text saying what ACES is and what members do. The Business and Marketing Manager (Neil Webster) will work with the Editor on means of marketing the ACES Terrier to a wider audience. Promoting an appearance on HIGNFY is to be considered.

It was also agreed to produce a flyer, to distribute to non-member organisations [Ed – the flyer was also available at the conference].

ACES' website

The Secretary, on behalf of Paul Over, reported on progress with the website rebuild. Following the submission of quotes, Ten Creative had been formally appointed and had started detailed work on the structure and content of the new website and had produced a timeline for completion of the main tasks. Further details are contained in the report by Paul Over included in the Council Main Report on the website.

Discussion took place about the forum and in particular, giving access to a wider audience. There was general consensus that wider access should be given without diminishing member benefits. It was also noted that the forum needs to show that replies have been made, even if taken off-line, to demonstrate the ongoing activity. It was suggested that wider access could also be achieved by having 2 levels of entry, such as a forum for all-comers and a private "message board" for members only.

Business Plan report

The Senior Vice President (Peter Gregory) referred to his Action Plan Progress Report which showed some variation in performance. It was commented that the RAG rating was potentially understating progress in some areas. The SVP will approach individuals and iron out any problems or identify constraints.

The Secretary displayed graphical representations of current ACES members in English LAs and this prompted further discussion on measures to increase membership to be taken up by the Business Plan team.

The Secretary reported on a follow up to his previous review of ACES governance. He put forward proposals for a review of the liaison officer duties and roles. There was general agreement that the roles needed to reflect changes in emphasis in member organisations. It was ultimately agreed that investment and commercialisation should be incorporated into the strategic asset management role, which should also include One Public Estate matters. Further work was needed on assembling the right team to take on this extended topic area.

Annual Conference 2019

The President reported on progress with the conference arrangements. A full programme of speakers had now been established and a good number of sponsors had agreed to support the conference [Ed – see conference write-up in this issue of ACES' Terrier – if you were not there, read what you've been missing!].

Malcolm Williams reported on arrangements for the social programme and it was noted that there was keen interest from social delegates [Ed – see social write-up in this issue of ACES' Terrier].

The President referred to the Gala Dinner at the very prestigious Royal Yacht Squadron and felt that a formal (optional) approach for black ties be encouraged.

AGM 2019 venue

The Secretary advised that arrangements for the 2019 AGM, to be held at the City Chambers in Glasgow on Friday 15 November 2019, were progressing well and that Nick Allan was dealing with the offer of sponsorship of the meeting.

ACES Award for Excellence 2019

The Senior Vice President reported that the Award for Excellence had now been launched and all working members had been written to and invited to submit nominations. Details of the Award are posted on a new page on the website. Branches were requested to promote the award and the Secretary to send a reminder.

The Senior Vice President also reported that the President's Award had also been publicised and that branches again had a responsibility to ensure that each branch make at least one submission.

RICS Regulated, Unregulated and Registered

Jeremy Pilgrim reported on the matter of RICS Registration, following discussions with the RICS, and the need for greater clarity on terminology and definitions. Council thanked Jeremy for his efforts and requested him to pursue the matter further. It was considered that our aim should be to produce an explanatory leaflet to send to all relevant chief executives.

Future meetings

Annual Meeting

15 November 2019
Glasgow (City Chambers)

Annual Conference

24-25 September 2020
Greater Manchester

Annual Meeting

13 November 2020, London

ACES Council

24 January 2020, Guildhall, London

ACES Council

24 April 2020, Guildhall, London

ACES Council

10 July 2020, Venue TBA

Co-ordinators and external working groups

A number of informative and useful reports were received from coordinators. Full details of the Liaison Officer reports are contained within the Main Report produced for the meeting and posted on the website.

Branches

Branch reports were submitted to Council by the North East and Welsh Branches. There was discussion about improving the sharing of agendas and minutes on the website, so other branches could compare and learn. It was considered that a new "Branch Page" be created on the new website for sharing best practice etc.

ACES MEMBERSHIP

Trevor Bishop MRICS, ACES Secretary

I list below the changes in membership between 1 July 2019 and 30 September 2019.

New members approved

There were 10 new applications approved during the period:

First Name	Surname	Organisation	Branch Ref
Simon	Campkin	Bournemouth, Christchurch and Poole Council	SW
Jon	Doherty	Essex County Fire and Rescue	E
Georgia	Cayton	Manchester City Council	NW
Peter	Beer	Milton Keynes Council	HoE
Bee	Lewis	Milton Keynes Council	HoE
Anthony	Smith	NPS Peterborough	E
Simon	Kelly	Royal Borough of Greenwich	L
Catrin	Mathias	Somerset West and Taunton Council	SW
Tom	Putt	South Oxfordshire & Vale of White Horse DC	HoE
Russell	Munn	The Scottish Fire and Rescue Service	S

No members transferred during the period.

Resignations

The following 2 members resigned during the period:

First Name	Surname	Organisation	Branch Ref
Thuso	Selelo	Mid Sussex District Council	SE
Colin	Scott	North Lanarkshire Properties LLP	S

Membership

Summary of current membership at 30 September 2019:

There were 382 members as at 30 June 2019.

Total Membership	
Status	No.
Full	229
Additional	61
Honorary	33
Associate	26
Retired	41
Total	390

Chris is Head of Asset Management in the Resources Directorate, London Borough of Sutton. He is a member of ACES Council and often takes on the role of recording speakers at ACES' conferences and annual meetings [Ed – for which I am very grateful].

MJ AWARDS

A Highly Commended result for an innovative project

Chris Rhodes

Here Chris outlines the complex project submitted to the MJ and how Sutton Council fared on the night. Chris makes the observations that approaching half of the 18 award categories had a significant property context, and we asset managers should be broadcasting the fact.

The project

A corporate decision to enter my authority for the Municipal Journal Award for Innovation in Asset Management was one I was delighted to get behind. We had just spent 2 years and £30m acquiring land for our London Cancer Hub development. This initiative will see 1m sq ft of medical technology, research and ancillary space developed alongside the facilities of the Institute for Cancer Research (ICR) and Royal Marsden Hospital, with up to 3m sq ft in total. Existing expertise and brands will attract new development and create up to 13,000 new jobs in the course of creating one of the leading research and treatment centres in the country. (More details are available at www.londoncancerhub.org.)

We had also acquired land in the same location for a new secondary school, which we built to Passivhaus standards for Harris Academy and which opened in September, the country's first Passivhaus secondary school, with a focus on life sciences complementing its shared location. The development as a whole would boost the case for new public transport links.

The challenge

A number of factors had conjoined to bring all this together. The most significant one was the local hospital trust deciding to rationalise premises and make surplus land available. Sutton Council had also had a peer review, which suggested that we should make more

of local links with leading organisations such as Royal Marsden and ICR. As well as working with the hospital trust and cancer specialists, we had to devise a marketing and procurement process to find a development and funding partner. Planning policy had to be amended, consultation carried out, and negotiations undertaken with the Department for Education regarding the new school, which Sutton designed and procured. We had to identify meanwhile uses for a varied selection of buildings on the site. One of them provided a temporary home for the new school during the main construction programme.

This seemed a good spread of asset management activity on which to make the case for the award. I noted the points needing to be covered in the brief and drafted the submission, with much help from colleagues. The message came back that we had been shortlisted and needed to be there on the night. Conversations took place in the upper echelons and funding was identified. The calibre of the venue was clarified by the offer: we all had to book a room and stay over, at a "special discount rate"... of £503 a night. Because £499.50 would have sounded a bit cheapskate, I concluded, while checking the time of the last train home.

The event

On the night, a number of us headed into town for the event. A sweltering day



in mid-June gave way to a very warm evening, as a great many dinner-jacketed and posh-frocked guests headed to the Park Lane Hilton. Maybe it wasn't just me thinking the venue was a far cry from the usual local authority meeting room where one might get a cup of tea or, stretching a point on special occasions, a sandwich. A vast lobby on the first floor thronged with people, and hotel staff tried their best to keep the supplies of welcome drinks coming.

The size of the lobby paled into insignificance against that of the ballroom in which the dinner itself was held. Discreetly lit, lavishly decorated and dressed, a quick tally of the number of tables suggested around 1,000 people attending, most of them from much further afield than south London. The evening was compered by Steph McGovern, the BBC Breakfast TV business presenter. We were welcomed, again, and invited to enjoy the dinner, all excellent and efficiently served for the scale of the event.

Quite a bit later and very well-fed, the awards ceremony itself rolled into action, with a very slick presentation of the kind which can only come with much practice and the best of production values. Steph McGovern was both charm personified and highly skilled at getting quite large teams of local government officers to the front for photos, a presentation, and then back to their tables in double-quick time; there were 18 categories and a lot to do.

Looking back through all the winning entries, a stand-out point for me is how many of them involved property to a significant degree. Our fellow London Borough of Waltham Forest won Local Authority of the Year for a package of successes, including the acquisition of property investments to help with revenue and regeneration. Cheltenham BC won the Best Commercial Council award for its approach to borrowing and, again, making property investments. Darlington's self-build social housing programme won the award for Social Housing Initiative. The Corporate Director of the Year had achieved many things, one of which was direction of a property venture fund and some direct development. The London Borough of Brent took the Innovation in Finance award for acquiring residential property to help with its homelessness duty. Middlesborough redeveloped a disused office block into a wellbeing hub with funding from Public Health England for the Public Health Improvement category.

But what of the award for Innovation in Asset Management? Sorry to say we didn't win. We did get a Highly Commended, along with the London Borough of Enfield. The prize went to Gloucester BC for an income strip and lease re-gearing scheme, which led to the refurbishment and extension of a retail centre in the town and future development potential for key worker housing.

The following day there were a few late arrivals, following the later stages of the event, which had gone on until the small hours, with music and dancing for those who had taxis home. Colleagues assured me it had continued to be a great evening.

Of the total of 18 award categories, 7 of the winners - nearly 40% - had a significant property context. In these times of local authorities being increasingly self-reliant for financing and needing to be entrepreneurial, that tells us a lot about the importance of property skills in the sector. More details are still available at the MJ website, <https://awards.themj.co.uk/winners>.

At a time when authorities everywhere are having to find new sources of revenue and deal with the continuing push to do more with less, it was a genuine treat to come together as a celebration of the best new initiatives and most enthusiastic people. The message for me overall being that we can all use our skills to do something really worthwhile for our authority and its residents, and we need to broadcast it as well.



Jan is editor of the residential section of RICS Property Journal. She has written for a number of RICS publications and has a special interest in the reuse of empty homes and solutions to the housing shortage.

EMPTY PROPERTIES

The councils strike back

Jan Ambrose jambrose@rics.org

I first read this article in RICS' Property Week, and was extremely pleased that somebody was writing about the important work that many local authorities undertake, which generally goes unnoticed. Jan gives 3 examples where councils are instrumental in bringing private empty properties back into housing use.



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Context

While the number of empty properties throughout the country is on the rise, the misconception persists that local authorities are doing nothing to bring them back into use. But nothing could be further from the truth.

The recent BBC1 series *The Empty Housing Scandal* has thrown the state of the UK's long-term vacant properties into sharp relief. Although there are an estimated 200,000 empty homes – including 11,000 unoccupied for more than 10 years – it is simplistic to think that these offer a quick fix for the UK's housing problems.

Research by the National Housing Federation confirms that the current shortage in England has reached 4 million homes (bit.ly/NHFEng4mhomes). It is therefore in everyone's interests to bring vacant homes back into use.

Such buildings can quickly fall into a dangerous condition, with pigeons and other vermin entering, water penetration, as well as wet and dry rot. These factors may have an impact on surrounding properties: besides decreasing the value of neighbouring homes, they can soon become the venue for antisocial activities, such as vandalism, drug taking and even prostitution, while squatters may also move in. Empty properties are often found in highly desirable areas where houses can fetch prices of more than £500,000, and obviously their derelict state doesn't enhance the chances of

neighbouring homeowners who want to sell up and move away. Houses that have been vacant for any length of time need more than a fresh coat of paint and a new kitchen and bathroom.

The UK's huge housing deficit means that people are living in totally unsuitable accommodation, such as emergency bed and breakfast, hopelessly overcrowded dwellings, or, of course, swelling the ranks of those sleeping on the streets. As far as private landlords are concerned, too, an empty home is an expensive headache. Rogue tenants may have disappeared suddenly, leaving rent unpaid and the house damaged – and the landlord, who hasn't a clue where they are, is left with a vacant property in such a disgusting state it can't be re-let without first spending a lot of money to make it habitable.

Meanwhile, the local authority faces a triple whammy. It may not even know about the empty home until advised of it, either by the neighbours or perhaps an alert delivery person. Even then, it is not a simple matter of slapping a compulsory purchase order (CPO) on a derelict dwelling; there is serious detective work entailed in identifying the owner or, if they are deceased, those who expect to inherit. This can take years; it involves interrogating public records such as the Land Registry and using probate research companies.

This comprehensive search becomes even more complex if it transpires that there is more than one owner or beneficiary. During this time, the council

is empowered to display a s86 notice under the Anti-social Behaviour, Crime and Policing Act 2014, to secure the property against any unauthorised entry (bit.ly/AsBCPAct14).

Having identified the owners or beneficiaries, the local authority liaises with them to establish whether they can work together to bring the property back up to a habitable standard. It is only if they refuse that the council can issue a CPO. And don't forget, that while a property remains empty, no one is paying council tax. Over several years, that must be a huge amount of lost revenue for cash-strapped local authorities.

Case studies

Bearing in mind the huge odds stacked against them, councils up and down the country are doing a pretty good job of making empty homes once more fit for use.

Burnley Borough Council

Burnley Council, offers the owners of empty homes an interest-free loan of up to £20,000 to enable them to bring properties back into use, subject to certain criteria:

- the landlord must either be accredited, or working towards accreditation, with Burnley's Good Landlord and Agent Scheme, or licensed through the council's selective or mandatory licensing schemes
- the landlord must ensure that reoccupied properties are managed satisfactorily
- the property must require work to bring it up to the Decent Homes Standard
- it must have been vacant for more than 6 months
- it cannot be included in a confirmed or future clearance programme.

Bolton Metropolitan Borough Council

Bolton Council reminds owners of the risks and expense of leaving properties empty. Along with many local authorities, it subjects owners of properties left vacant for 2 years to pay a council tax of 150%. Besides offering an empty homes loan, it uses a matchmaker scheme to pair unoccupied properties for sale with

potential buyers on its lists who are willing to consider them, even if they need extensive works. Owners of vacant properties can advertise with the council free of charge.

Kent County Council

Kent County Council launched its No Use Empty campaign in 2005 (no-use-empty.org.uk). The initiative aims to improve Kent's urban environment, by bringing empty properties back into use as quality housing, and raising awareness of the problems they cause for local communities if left vacant. Originally focusing on Thanet, Dover, Shepway and Swale, which together had the highest number of empty properties, the initiative was expanded in 2008 to all 12 district councils in the county.

No Use Empty offers 3 forms of financial assistance, supported by £6m capital funding from the county council:

1. A loan scheme helps owners and developers refurbish or convert empty homes or redundant commercial buildings, such as parades of shops and offices, to provide good-quality residential accommodation. On completion, properties must be made available for sale or rent. The scheme is a revolving fund – as loans are repaid, the money is lent again to support new schemes
2. A partnership fund is available to help the districts undertake enforcement action, such as issuing CPOs. Although district councils are empowered to deal with rundown empty properties, they often have neither the financial and human resources, nor the knowledge and experience to do so
3. A direct purchase scheme allows the council to acquire empty properties for redevelopment into housing.

The scheme is run by a team that operates virtually from different locations. In 2012, the council launched an affordable housing loan scheme, which has a capital fund of £2m, coming jointly from its own resources and the Homes and Community Agency. This scheme works with Optivo Housing Group (formerly Amicus

Horizon), which manages the refurbished properties on behalf of the owners for a 5-year period, providing a guaranteed monthly rental income.

The No Use Empty initiative, which has now also been rolled out to local authorities in the west of England, had its 15 minutes of fame in The Empty Housing Scandal, which showed that there are 450 unoccupied properties in Folkestone, yet there are 1,200 people on the housing waiting list.

One such vacant property comprised a redundant prep school that had been left derelict for 6 years. An entrepreneurial and courageous builder, used to seeing this eyesore on his way to work, investigated the possibility of bringing it back into use. Both the exterior and interior were in a dreadful state; but he saw beyond the fire and water damage, evidence of drug taking and theft of copper and steel.

Using loans from Folkestone & Hythe District and Kent County Councils, he transformed the pair of huge Victorian semi-detached properties into 8 flats – 7 with 2 bedrooms and one single-bedroomed flat, allowing living space for up to 30 people – and meaning the local authority could reinvest the council tax for future projects.

Conclusions

This is just an overview of schemes adopted by a handful of councils in England. There are many more local authorities doing their utmost to ensure a home is doing the job it is meant to do. Both Property Journal and ACES' Editor would welcome stories of empty homes initiatives from councils in Wales, Scotland and Northern Ireland as well [Ed – see Salford City Council's practical initiatives to bring empty properties back into use in 2017 Autumn Terrier].

Only the over-optimistic would believe that re-using empty homes will solve the country's appalling housing shortage. But it can give those who are desperate for a roof over their heads an affordable option.

Ed - This article originally appeared in RICS Property journal, July/August 2019.



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DEVELOPER PROCUREMENT

Best consideration in the OJEU context

Duncan Thomas MRICS MRTPI duncan.thomas@realestate.bnpparibas

In this article, Duncan comments on the challenges in applying the duty to achieve "best consideration" in the context of formal developer procurement exercises, where both price and quality considerations are typically involved. "It seems strange that clear guidance on this point is not easy to find." Duncan and I had a brief chance to discuss this at ACES' conference, where BNP Paribas was a sponsor.

Best consideration

When disposing of an interest in land, public bodies such as local authorities are required to achieve "best consideration". This is a requirement of s123 of the Local Government Act 1972.

Best consideration is usually taken to mean the best price achievable in the open market. It is important to note, however, that best consideration is the highest price achievable, not the highest offer received. The public sector can, for example, reject highly conditional bids, bids which are considered to be erroneously high (such as because they are based on over-optimistic planning assumptions) or bids from parties who do not have the appropriate financial standing or experience to undertake the development proposed. In other words, this consideration of wider factors is permissible, in order to provide a reality check on the likelihood that the authority will actually receive the returns promised by the bidder. What is not appropriate, however, is to allow non-financial considerations to be a determining factor in their own right – for example, choosing a low bid because the resultant development may create more jobs – and this principle is supported by case law.

This requirement to achieve best consideration is generally well understood, at least in relation to land sales. But what are the rules that apply when a public body is procuring a development partner?

Since the landmark Roanne case in 2007, local authorities and other public bodies are required to follow an OJEU (Official Journal of the European Union) compliant procurement process in certain circumstances. A detailed explanation of these circumstances is beyond the scope of this short paper. However, in essence OJEU is likely to apply when the procuring body wishes to impose positive delivery obligations upon the developer, say, to deliver a scheme in accordance with the authority's requirements, and the value of the works in question exceeds the relevant OJEU threshold (currently circa £4.55m).

Quality or financial criteria for best consideration?

Such procurements – whether via a "full" OJEU process, or using an OJEU compliant framework (such as Homes England's Delivery Partner Panel or the GLA's London Development Panel) - explicitly entail assessment of bidders' proposals upon the basis of both quality and financial criteria. Indeed, while OJEU has its drawbacks, this is one of the potential attractions for a procuring authority, namely, for example, for large scale regeneration projects, the ability to assess bidders' proposals on qualitative, as well as financial matters. These considerations might include perceived wider regeneration benefits, experience of undertaking similar complex

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A formal (ie OJEU compliant) developer procurement will typically involve tender evaluation on both price and quality elements (Picture reproduced under licence from Adobe Stock)



development projects, approach to design quality, and so on. In these circumstances, the usual wording is that the preferred bidder represents the Most Economically Advantageous Tender (MEAT).

It therefore follows that when undertaking a procurement, it is possible that the procuring authority will not select the bidder who offers “best consideration” ie the highest price. Consequently, the question is sometimes asked as to where the procuring authority stands with regard to s123 considerations, if the highest bidder is not selected?

Interestingly, this question is by no means always asked: the implicit assumption, at least for some public bodies, seems to be that this is simply the wrong question to ask when undertaking a formal procurement exercise. Instead, there is an inherent – or implicit – recognition that the procuring authority is securing “consideration” which goes beyond the purely financial, such as the quality of the bidders’ supply chain, their relevant experience, and intellectual capital. In many respects, this represents a common sense approach.

Guidance?

However, clear and unequivocal guidance on this point is surprisingly hard to find. Crown Commercial Services guidance on awarding contracts (2016) generally indicates that where public bodies are procuring services, they do not necessarily need to accept the highest bid and are able to take account of qualitative considerations. One could infer that a similar regime is permissible when disposing of assets via a procurement. Certainly, DCLG guidance on the disposal of

local authority assets (March 2016) specifically refers to OJEU or the use of developer frameworks as an appropriate option.

While the difficulty in finding unequivocal guidance is surprising, it should perhaps be remembered that s123 significantly pre-dates the procurement legislation, although the Roanne case is now some 12 years old.

Local authorities do, of course, have the ability to dispose of land at an undervalue of up to £2m, or higher with the Secretary of State’s approval, via the General Disposal Consent. However, while £2m might seem like a significant margin for many relatively straightforward land sales, it should be remembered that OJEU is typically reserved for larger and more complex development projects. In the context of such projects, the £2m figure may not offer significant leeway.

It might seem that the safest approach in such circumstances, where bid evaluation using MEAT criteria results in a significant undervalue, is to seek the relevant approvals before entering into any contractual obligations with a preferred bidder. While this may seem obvious, it is far from satisfactory. The use of an OJEU procurement can act as a significant deterrent to many developers, not least because such exercises represent an expensive and resource-intensive commitment, for both bidding parties and the procuring authority. If the satisfactory conclusion of a developer procurement through an OJEU process such as Competitive Dialogue or the Competitive Procedure with Negotiation will be contingent upon the approval of a third party, this will increase the risk profile of the exercise still further – perhaps to the extent

that there are too few, or no, bidders.

The use of an appropriate developer framework (eg DPP3/Local Delivery Panel) may provide some comfort in such circumstances, with the confidence from using a framework procured by a national body such as Homes England or the GLA. In other words, taking the view that “if others are doing it, then I’m probably safe to do this also ...” This does not, however, seem to be a watertight argument, and both frameworks are in any case only intended for residential-led projects.

To further complicate matters, on occasion we have been asked by clients who have run procurements using a framework (which will explicitly allow evaluation on the basis of both price and quality) to confirm that best consideration or market value has been achieved. This is in situations where we have not been involved in the procurement process itself, but are asked to provide a third party opinion in order to “frank” a deal. What is the most appropriate course of action in such a circumstance, if the independent surveyor is unable to confirm that best consideration or market value has been achieved? Re-run the procurement? But who is to say that a fresh procurement exercise – even if it were to attract any bidders – would result in an outcome where the highest bidder wins? This certainly suggests a lack of understanding of the “rules” in this context.

Conclusions

In practice, many public sector clients seem to accept that de facto a developer procurement, as opposed to land sale, may necessarily mean that the highest price is

not achieved, and are willing to proceed accordingly. In other words, the common sense approach referred to above is adopted. If nothing else, a well-run developer procurement exercise will have established clear, objective quantitative and qualitative criteria for the evaluation of bidders' proposals and hence, a clear audit trail and rationale for the decision-making process.

It seems strange that clear guidance on this point is not easy to find. Perhaps one reason for this is the way in which both best consideration and OJEU procurement occupy a nebulous space that involves

both surveyors and lawyers. It is naturally the surveyor who is asked to confirm that the requirements of s123 have been met, but clearly s123 is also a legal requirement informed by case law. Similarly, while the evaluation of procurement tenders falls across a range of disciplines (including surveyors looking at the commercial aspects), the framework within which procurement operates is very much a matter of public law. Perhaps this topic is one of those "hot potatoes" of which no one wants to take ownership? Of course, speaking of the legalities, if disposing of an

asset at an undervalue, one potentially also needs to navigate State Aid issues. But that is a whole different can of worms....

Perhaps we should simply be grateful that the OJEU process does provide the flexibility to take account of a range of criteria, for challenging and complex projects. However, I suspect that the question of s123 in an OJEU context is one which will continue to be asked of advisors for the foreseeable future. If anyone has found the "silver bullet" solution, then please let me know!



Dave is the Property Networks Manager for CIPFA and advises on asset management, partnering and wider property issues throughout the UK. Dave has extensive experience in the development and implementation of innovative public/private partnerships. He manages CIPFA's Highways Asset Management Planning, and Strategic Assets and Property Training.

www.cipfa.org/services/property



PARTNERING

Partnering alternatives to outsourcing

Dave Ayre david.ayre@cipfa.org

Dave outlines an opportunity for public sector surveyors to offer evidence and pilot new ways of working, as part of the proposed research on partnering alternatives to outsourcing. Dave describes some of the options – good and bad – and suggests strategic partnerships as a way forward.

Centre for Partnering

A collaboration of individuals, universities and CIPFA Property met recently in the House of Lords to launch a new Centre for Partnering, to research partnering alternatives to outsourcing. Evidence is needed to fill the current policy vacuum; a bolder response to the failure of outsourcing and the demise of PFI is needed. The possibility of Brexit and removal of EU Directive-compliant procurement regulations provides the opportunity for public and private sectors to collaborate more freely and pilot new ways of working, as part of a major academic

research programme. This research project will be developed over the coming months and if successful in attracting Research Council funding, will be inviting local authorities to offer evidence and pilot new ways of working.

The collapse of Carillion last year has provoked a major rethink into the role of the private sector in delivering public services. It collapsed in January 2018 with some 420 public sector contracts, many of which were halted while replacement constructors were procured. The Local Government Association estimated that 30 councils and 220 schools were directly affected. Other major outsourcers have been under pressure

as they go into decline. Capita and Serco are regularly in the media glare. Interserv went into administration and others such as Kier have posted profit warnings.

Government response

The government's response has been mainly technical, with proposals to strengthen the insolvency framework and alternative procedures to support business rescue, in cases of major corporate failure. The National Audit Office and Parliamentary Select Committees have carried out major investigations. Perhaps understandably, they focussed on addressing issues of corporate governance and the government's capability to procure and manage major outsourcing contracts. In February 2019, the Government Commercial Function published the Outsourcing Playbook – a guide to help procurement professionals make the right decisions on outsourcing.

Councils' reactions

The response of local government has been more varied. Several local authorities acted swiftly to bring services back in-house. Many more are carrying out a fundamental review of their current outsourcing arrangements. Some progressive local authorities were able to insulate themselves from Carillion's collapse. For example, Carillion was the main contractor on Birmingham City Council's Paradise Birmingham regeneration. The works were being delivered through a Limited Liability Partnership which was not a "contracting authority" under the public sector procurement regulations. This allowed the swift appointment of another constructor, following the collapse of Carillion. Had it been procured directly by the council, it would have taken 9-12 months for a replacement constructor to be appointed, in compliance with procurement regulations.

Private Finance Initiative

The PFI, although promoted as a form of public/private partnership, was in reality just another form of privatisation. PFI was introduced in 1992 by the Major government and embraced by New Labour, who had signed 850 deals by the end of Blair's term as Prime Minister in 2007. The key principles were the transfer of debt and assets, and the consequent risks, to the private sector.

In 2011 there was around £300bn of debt owed by public bodies to PFI companies, to deliver new public assets worth just over £50bn. More recently, the Institute for Public Policy Research has found that an initial £13bn of private sector-funded investment in new hospitals will end up costing the NHS in England a staggering £80bn by the time all contracts come to an end. PFI has faced growing scrutiny and criticism by the National Audit Office and Parliamentary Select Committees for failing to demonstrate value for money. Even the concept of risk transfer was difficult to sustain, as it became clear that the public sector not only carried the ultimate liability, but also the risk as major PFI deals collapsed, such as the London Underground PFI, which was bought out by Transport for London.

Despite attempts to revive PFI with the introduction of PFI2, the Chancellor in his 2018 Budget, recognised the shortcomings and announced that no further PFI or PFI2 projects would be approved.

Policy vacuum

The loss of confidence in outsourcing and the demise of PFI has created a public policy vacuum. In March, the Labour party announced proposed guidelines to bring services back in-house if they involve services for people "at risk". There would be some exceptions for low value contracts and contracts between public bodies. There is also recognition that some councils or government departments may have lost the capacity to insource services. Labour proposes to support the expansion of council capacity through the provision of model contracts, access to the government legal department, and support for collaboration among councillors across the country. Organisations such as CIPFA also have the breadth of knowledge and experience to be able to assist those councils wishing to reinstate services previously outsourced.

Set against the £284bn p.a. spent by the public sector on buying goods and services from external suppliers - a third of all public spending - Labour's proposals will still leave a significant proportion of public services delivered by external providers. The challenge remains as to how public, private and third sectors can best work in partnership, to deliver public services which improve the quality of life of communities. Looking at past successes and failures does go some way to help.

The search for genuine public/private partnerships

New Labour was elected in 1997 and began to replace the Compulsory Competitive Tendering (CCT) regime, introduced by the Thatcher government, with best value. Councils were invited to pilot new forms of public/private partnership and those that were selected were given exemption from CCT.

A further driver of partnering as a concept came from the manufacturing sector. Rather than constantly put out tenders and choose different suppliers on the basis of lowest price, assemblers entered into long-term, but relatively informal agreements with a few suppliers. Suppliers work together with the assembler to deliver continuous improvement in products and processes over time. As a result, all parties deliver lower costs and improved quality without squeezing each other's profit margins. Steady profits then provide the basis for investment in improved products and processes, and a virtuous circle of continuous improvement is established.

In 1994 "Constructing the Team", the Latham Report, the final report of the Government/Industry Review of procurement and contractual arrangements in the UK construction industry was published. The report advocated the transfer of some of the successful practices from manufacturing to construction, and indicated partnering as a way forward to improve efficiency and profitability in the UK construction industry. This was followed by "Rethinking Construction", a report by Sir John Egan in 1998. One of Egan's central recommendations was to replace job by job tendering with longer term strategic alliances between clients and constructors.

Early forms of collaboration took the form of design and build contracts, which evolved to overcome some of the problems of traditional procurement. This involved collaboration between the construction team along part of the supply chain (for example the architect, cost consultant and contractor). In this scenario, one party (usually the principal contractor) manages the design and cost consultants on behalf of the client, thus integrating the cost, design and construction processes.

Demonstration projects extended this early form of collaboration to project partnering. This goes beyond design and build, by getting more members of the project team together including client,

contractor, sub-contractors and consultants to work as a team at design stage.

Partnering agreements are often entered into, with collaborators agreeing to share associated risks, as well as the benefits of cost savings. The demonstration projects identified the following benefits:

- Increased collaboration of the supply chain provided more benefits than those resulting from the traditional design and build process
- Improved communication between the team resulted in identifying difficulties earlier than with traditional procurement and in design and build contracts
- Predictability of both cost and time improved as late design changes became less likely with specialist sub-contractors adding to the expertise of the main contractor at design stage.

However, the potential of the early best value pilots, and subsequent initiatives, were increasingly constrained in the public sector by proscriptive procurement regulations and a determination by the Treasury, that PFI should be the primary partnering model supported by the government. EU law, particularly the EU Treaty and the Procurement Directive 2014/24/EU, currently underpins the broad terms under which public procurement and competitive tendering operate. The rules have been transposed into national UK law as the Public Contracts Regulations 2015, and establish how public authorities purchase goods, works and services.

There is one presumption in traditional procurement approaches and that is “the client or commissioner knows best”. Clients and procurement professionals draw up a document specifying what services should be provided, and more often than not, how they should be provided. Yet, managers are taught that one of their most valuable assets are their workforce; the best people to improve services to customers are often those at the front line day in and day out. When it comes to procuring works and services, these management principles are turned on their head. This is despite the conclusions of early demonstration projects showing the very real benefits and added value that could be achieved by early constructor engagement in the design/build process.

Some 25 years beyond the Latham Report, a review of collaborative working in the construction industry noted that the handful of high-profile demonstration projects from the 1990s were still mostly unrepeatable. In 2017, the Project 13 infrastructure initiative was established by the Institution of Civil Engineers at the peak of a significant amount of collaboration and alliancing. It notes that governance of procurement and delivery is often based on obtaining the lowest price through a competitive tender, and then delivering the construction on time, within budget and to quality. The flaw in this approach is that it assumes that lowest price represents best value and that completion on time, within budget and to quality defines the desired outcome.

As an example, the high-speed rail link between the Channel Tunnel and London’s St Pancras Station was delivered within the original budget and schedule, but has failed to achieve the revenues forecast from international passengers and property development. Project 13 advocates a new approach to tackle this problem, by establishing long-term relationships between the owner, the integrator and their key advisors and suppliers. The relationships should be based on a shared commitment to deliver continuous improvements in performance over periods of several years. Project 13 studies showed that engaging the right suppliers at the right time, and integrating them into the team, is critical to developing the right infrastructure solutions and to delivering value over the long term. This is more important than extracting the lowest price from suppliers through competition. A few percentage points saved in the price of a supplier’s services pale into insignificance when they have a technology that can transform the solution.

They conclude that successful owners and clients understand their suppliers’ capabilities and know when to integrate them into their delivery teams, to obtain the best results. They invest time in visiting their suppliers’ offices and factories and in exploring the products and services they offer. They also commit management time to integrating people from different organisations, professions and backgrounds into a single high-performing team, with shared culture, processes and practices.

Effective teams are networks of collaborative relationships that encourage an exchange of knowledge and capabilities to drive improvement and innovation.

Owners and clients should take the lead in designing coalitions of suppliers to deliver their programmes, and should not allow their supply chains to be the consequence of a series of traditional procurement decisions.

Opportunities for change

These initiatives have clearly demonstrated that longer term strategic partnerships can deliver real benefits; some of this learning has been adopted by the public sector in procuring public services. Instead of services being delivered either in-house or by the private sector, many authorities established arrangements whereby in-house services worked with private sector partners, who were insourced to top up capacity and skills. The more innovative authorities have gone further, applying principles of reciprocal working, where in-house services used spare capacity to work for their private sector partners, generating income for the authority.

However, this enlightened approach is still far from becoming the norm, especially for building and housing construction, where collaboration is more likely to be promoted than actually achieved. Partnering has more often than not stopped at the level of client and principle or management constructor, with the supply chain being procured on a lowest cost basis. Not surprisingly, this has limited the potential for the industry and its customers to deliver the right outcomes for the wider economy and society in general. The need to explore fundamental alternatives to traditional procurement and outsourcing is long overdue.

COUNTY FARMS

Suffolk County Council

County Farms Estate –

Future direction

Simon Cartmell FRICS FAAV

Simon is Corporate Landlord Manager, Suffolk County Council and a member of ACES.

Simon kindly agreed to write about the recently ratified County Farm Estate strategic direction and policies. This updates the article written by Brian Prettyman in 2012/13 Winter Terrier, which looked at the then SCC's farm estates policy and its recent review.

Background

Suffolk is a traditionally rural county, and Suffolk County Council owns the fourth largest local authority rural estate in England and Wales, comprising 5,019 ha. (12,426 acres), largely let, with 127 tenants, together with a small number of residential and commercial occupiers, and represents a significant income stream to the council, both through rental and capital receipts.

Many county councils and unitary authorities own a rural estate, known either as a "Smallholdings Estate" or, more usually, "The County Farms Estate"(CFE) . These were first set up just before World War 1, but their expansion really followed the first and second World Wars, to provide returning soldiers with employment and a home.

The Suffolk CFE includes strategically important land on the urban fringes of

some of the county's largest towns, with substantial areas situated around Lowestoft, Mildenhall, Hadleigh, Sudbury and Ipswich. The nature of the area is such that the vast majority of the farms are in arable production, with standard wheat/barley/oil seed rape production, although with some root crops such as potatoes in north west Suffolk, where the soil type allows.

In January 2019 a Policy Development Panel (PDP) was instigated, to review and set out the Estate Strategic Direction and policies, subsequently ratified by Cabinet. The remit was broad and enabled the panel to examine all options for the future of the Estate. The Councillor-led panel used evidence from internal and external witnesses, including professional rural consultants and organisations, councillors, farmers, environmentalists, and tenants, to draft objectives and policies designed to enable the estate to be run in a wholly commercial manner, that creates opportunities wherever possible, while also working collaboratively with stakeholders, to improve resilience in rural communities and the environment.

The endorsed objectives and policies for the estate management of the Estate are programmed to inform policy until 2029.

In summary, the principles accepted covered the issues of estate ownership, commercialisation, agricultural matters, and environmental and community interaction. The outcomes are detailed below.

Estate ownership

The PDP considered all options in terms of the Estate retention or disposal and concluded that the CFE remained very important to the county, as it represents good value for money and contributes to



the council's strategic priorities. Linked to this, estate objectives were agreed, including to run the estate commercially, utilising estate assets to promote and complement the council's strategic priorities, including economic growth, social capital and 'Greenest County', and providing sites for new development. Disposals will only occur as part of the council's wider disposal process, with planning permission for non-agricultural use, or when the asset has no strategic value, or does not contribute to the CFE objectives.

Acquisitions should be considered where there is strategic value to the Estate, produces a revenue return, or replaces land sold for development purposes.

Commercialisation

The PDP concluded that the management of the Estate should be commercially focused and addressed the following issues:

- Non-agricultural development: to continue to take a fully commercial approach to promoting potential development sites (residential, commercial and industrial), to include renewable energy projects, and to work with tenants and partners, including district and parish councils where appropriate, to investigate all potential income streams, supported by a robust business case
- Farm diversification: the panel confirmed that the Estate should promote tenant-led diversification (subject to a suitable business plan), with examples cited as considering converting suitable farm buildings for office, retail, industrial or mixed-use schemes
- Investment and maintenance: to invest in the Estate proactively where investment produces a return to the council that meets its standard investment threshold, or where there are strategic gains to the council or estate.

Agricultural matters

The agricultural future of the Estate was confirmed. New entrants should continue to be encouraged to apply for tenancies when opportunities allow, and applicants will be expected to provide a completed

application plan and business plan, including cash flow forecasts, evidence of sufficient financial support, and be able to demonstrate knowledge of and/or experience in the type of farming or enterprise for which they are applying. Initial tenancies will be granted for 5 years.

Existing tenants who wish to renew their tenancies on expiry will be able to apply for a further term as per the above process; they will be expected to demonstrate that they have grown their business successfully and outline how they intend to develop their business in the future. Existing successful tenants will be offered a term of up to 15 years.

The policy regarding rent reviews remains that they will be treated as being set at a commercial level.

Sub-letting will be permissible for specialist cropping, provided that it amounts to no more than 20% of the holding, and subject to a suitable cropping licence.

The panel recommended that Retirement Tenancies can be extended for up to 5 years, provided this does not conflict with the council's broader strategy.

Environment and Social

The PDP was unanimous in supporting additional public access across the CFE where this is appropriate. There are currently 54km of public rights of way, although no formal permissive access. The potential for permissive routes was recognised for tenants, to maximise funding under a new agricultural payment scheme.

Suffolk County Council has actively endorsed care farm initiatives, which has benefits to reduce the cost of ongoing health care and improve community pastoral care, and will continue to do so. Pathways Farm at Lowestoft is a prime example of a County Farm holding. Pathways Care Farm operates from an 11-acre site in North Lowestoft, which consists of a small area of agricultural land and a range of traditional agricultural buildings and a period house. This property came back to the council following the retirement of the previous tenant. This provided an opportunity to offer the property to let for social enterprise purposes. Pathways Care Farm gives vulnerable people the opportunity to learn, re-build and grow through a range of hands-on farming activities. Approximately 50 vulnerable people a week attend.

The council actively seeks to promote and support alternative energy solutions and engage with partners to green initiatives, be it solar power, wind farms etc., and encourages its tenants to be mindful of opportunities.

Associated matters

Additionally, the panel undertook to:

- manage existing and to plant new woodland, either to help create new community assets, where appropriate, or to help with the strategic promotion of land for development
- look for opportunities for new, appropriate in-hand environmental land management schemes that do not impact on the Estate's main objectives
- promote the use of environmental land management schemes to farm tenants across the whole estate, to improve both biodiversity and permissive access
- look to create new rights of way on County Farms land where appropriate
- continue to work with local councils and other local stakeholders, to promote community schemes where these support the council's priorities and provide a lasting legacy.

Implementation

Work has started to embed the new policies within the County Farms framework, with the production of a new dedicated website, providing an enhanced range of information, and new lettings details at the appropriate time. The current available holdings can be found at <http://www.greensuffolk.org/wildlife-and-landscape/county-farms/>

Tenants' meetings are being planned, to explain more fully the future management direction. The Estate is again being reviewed to identify future core holdings, development opportunities, investment opportunities and alternative income streams.



CHANGE MANAGEMENT

Asset management is change management

Chris Brain FRICS chris@chrisbrainassociates.com

I'm delighted that Chris wants to keep his connections with ACES. This contemplative first article draws on the wealth and range of experience that Chris has gained working at CIPFA, on RICS groups, and with local authorities www.chrisbrainassociates.com

Chris spent nearly 25 years working in local government, involved in estate management, landlord & tenant work and latterly CCT, best value and strategic asset management. Having moved on to CIPFA in 2003, Chris has been delivering property consultancy and training across the public sector. In 2019, Chris established his own consultancy, Chris Brain Associates, and he continues to support the public sector with property consultancy and training throughout the UK, in strategic asset management, organisational efficiency and asset valuation.

The challenge

In the 4 decades I have spent in the public sector – yes it really is that long – there is one big thing that I have learned about how we make our property portfolios perform better and how we align the shape, form and performance of those portfolios, to deliver on organisational priorities. It is that we need to embrace change. When property asset management stalls, it is because of a failure to embrace the changes that are needed to make things happen.

I know from my work providing strategic asset management support to many local authorities over a number of years, that while the principles are fairly straightforward, making the change and sustaining the change is really difficult.

Change through strategic asset management can of course take many forms, and depends on local challenges and priorities. In my experience, change can generally be categorised into 3 distinct areas:

- For some, there is a need to change process, governance or decision making, such as in the implementation of a corporate landlord model
- For others, the change is around principles and policies for the wider management of the property portfolio, such as a performance management framework or disposal policies
- And for others, the change priority will be around the property portfolio itself, moving it from its current form into something else, for example, through rationalisation, development, construction, refurbishment, disposal or acquisition.

For some, there may be a need to bring about change in all 3 areas.

When I have worked with authorities to support them in their strategic asset management journey, it is important to identify where they have been able to make progress so far, and to understand what the key ingredients were which enabled that change to work for them. It is equally important to identify the areas where progress on the desired change has not happened, and to work alongside them to fully understand why that might have been, and devise an approach where we can together unblock those obstacles to success.

There can be a number of reasons why the change process has stalled. It can be that there is low awareness of the change that is needed, and people are not identifying with the need to change. Sometimes while the need to change might be there, it is not consistent across the organisation, and not everyone shares the desire to embark upon the change journey. They are the change resisters.

On occasions, some people lack the knowledge of what is truly needed to bring about the change, and there is a need to develop skills, knowledge and abilities, to enable things to get moving.

All too often I observe change has started to happen and progress has been made, but the change process has not been sufficiently reinforced during the change process. People have lost focus and taken their eye off the ball. They become distracted by other projects or priorities, sometimes thinking that the strategic asset management change has been sorted. But where change has happened and process and behaviours are new, the change process needs to be fed and watered. Every now and then it needs to be given a little boost of energy.



The process of change management

Change is not an event, but a process. And being a process, it can be difficult and complex to understand. Breaking down change into distinct elements helps us to understand the process of change and how we can devote our resources in managing it.

When you next contemplate developing your strategic asset management approach, and are thinking about how to go about it, then consider it in terms of change management. Change management is often described in the following terms:

- Preparing, equipping and supporting our people through change so benefits are realised
- Mobilising our people around a change to deliver expected results and outcomes
- Responding to the facts that a) change ultimately happens one person at a time, and b) collective outcomes depend on individual transitions
- Ensuring that solutions, however they are designed and delivered, are ultimately embraced, adopted and used by everyone.

This is no less true in strategic asset management of our property portfolios.

Now pause to reflect upon any strategic asset management 'failures' (or poorly implemented change) in your organisation. My betting is that you can name quite a few. On my travels through the world of strategic asset management I have certainly come across far too many to even remember!

Some changes end up behind schedule. Others run over budget. Some face tremendous resistance from staff, senior managers or elected members. Some are implemented, but the expected results never materialise. In some cases, changes fail completely and are abandoned. Many of the reasons your projects have not fully realised the expected benefits in the past could be tied to mismanaging the human side of change.

Now consider the cost of these 'failed' changes.

- How much time and money were spent on initiatives that were not fully implemented?

- What was the impact to the organisation from these changes not being implemented?

In local government these days, change is the only constant. We have to be ready for the changes that are coming our way. Our people need to be flexible and adapt to change. They need to be supported through that change, and that has to be planned. Our property portfolios need to be flexible to adapt to the change that is brought about by different operating models, resource availability, and social trends and expectations.

With local authority budgets under severe strain, it is quite possible that the current ways of doing things are simply not sustainable. It is therefore vital that we change both our people and our portfolios. We can ill afford the cost of failure to implement or respond to change.

So, as you move forward in developing your strategic asset management approach, think about it as managing change. Plan for it. Think about the change it will make to people, their lives and how they do things. Think about the impact, and what that might mean to them. Take those people with you, by explaining what you are trying to achieve or deliver. Try to identify the reasons why change might be resisted, and what you can do to mitigate that and ease concerns. Look for that buy-in, creating an awareness among everyone of the need for change, and do your best to get everyone desiring that change. Equip people for the change, by showing them how it will happen, developing their knowledge, skills and behaviours.

And finally, keep working on your change, reinforcing it as you go, reminding everyone of your shared ultimate destination. If you do that will you avoid failures? Well, not entirely, but you will hopefully minimise failures, and you might also minimise the impact of failures. One thing is for certain, if you do not embrace asset management as change management, you will continue to experience the sort of failures you reflected upon earlier in this article.

3 phases of change

Any strategic asset management approach should, if it is to be effective, involve:

- taking stock of where we are now
- establishing where we would like to be, and

- developing and embarking upon a journey to get us to our desired destination.

This is not rocket science. But it requires thinking about. It is all too easy to develop a model for strategic asset management that looks great on paper. But the proof of the pudding is in the eating. Asset management models are so often developed, written down and then never implemented or delivered. I see it happening all the time. If that feels like it is you, then perhaps you have failed to treat asset management as change management.

The 3 distinct phases of change have roots in numerous works and research over the last century, from anthropologist Arnold Van Gennep in 1909, to Kurt Lewin in 1948, and William Bridges in 1980. More recently, it has been developed as a basis for the ADKAR model, which describes the 3 stages as current state, future state and transition state. In strategic asset management terminology, these are our where are we now? Where do we want to be? And how are we going to get there?

If you think about asset management in terms of change management, you will be a step ahead of the rest, as many do not think of asset management in those terms.

It is widely accepted that change management relies on 5 inputs: *vision, skills, incentives, resources and action plan*. If any one of these inputs is missing then there are consequences, which are likely to jeopardise the change you are attempting to bring about. They include confusion, anxiety, resistance, frustration and false starts. How many of you can recognise those consequences in your failed attempts to instil strategic asset management in your organisation?

The 5 inputs model was developed by someone called Timothy Knoster. For many people, seeing the visual version of this model is almost like an aha moment. If you would like to see this visual, then I have placed a copy on my web site. Just click on this link: <https://www.chrisbrainassociates.com/managing-change>. If you are previously unaware of it, then it could literally change your world. It could be the trigger that makes you think about strategic asset management in a whole new way. Believe me, it could be the difference between strategic asset management stalling or blossoming in your organisation.



Anthony Bamford MBA MRICS MIWFM MCMI is Vice Chair of ACES Wales and has been heading up the property and assets service at Nottinghamshire County Council earlier this year, on an interim basis. He has been broadening his interests and was last published - on the web- on strategy in the apparel and fashion industry! Previously he was Interim Head of Asset Management at Bristol City Council.

COMMUNITY ASSETS

Strategic asset management and community assets

Tony Bamford anthonybamfordmba@gmail.com

Tony here outlines the practical work he undertook while he was working at authorities in Wales and at Bristol City Council, and makes the argument that they should be managed strategically, using appropriate performance indicators.

Introduction

As the balance of priorities in the assets and built environment moves towards planning and regeneration, recent research by the Welsh Government into the community asset initiative in Wales prompts a further look at this important area. This is particularly so, given the work I did with the Deputy Mayor in Bristol, Asher Craig, who has an enduring interest in the subject. The city council has been at the forefront of this initiative on a national basis; it has attracted significant interest and investment from Power to Change and works closely with a wide range of stakeholders, including Locality. The needs of a predominantly urban area of some half a million people carries both a different centre of gravity and breadth of needs to authorities of differing sizes and a more rural population.

Bristol has a vibrant third sector and the large number of Community Interest Companies and other bodies ensures a broad range of initiatives, both by type and by locality. Some initiatives are therefore quite localised, some are part of a neighbourhood network, while yet others form part of a nationally recognised grouping, such as wildlife trusts. The city environment is also important in that; despite its size it has a major representation of Green councillors on the city council and has initiatives such as local pounds (ie a local currency probably best known from Totnes in Devon). The city council

recognises the opportunity to use these resources and environment in a strategic way, and has always given strong emphasis to this agenda and initiative. It has also taken a strong lead in housing at scale, through traditional council housing, a new housing company, and growth areas.

Earlier initiatives

Historically I led the creation and introduction of the first Community Assets Policy at Flintshire County Council in North Wales, when I was heading up that property and asset service. This would be around 2010; and while not the first example in Wales, it benefitted from the opportunity to see other examples and the practical implementation of them. Accordingly, the most appropriate approach was to have 3 areas of interest - the shorter term for first time and smaller groups, the medium term for experienced operators, and the long term for well-established groups. Some years later, Locality and Power to Change continue to categorise the groups and opportunities in a similar manner, emphasising the effectiveness of this approach.

Through existing and newer groups, it became possible to set out a number of these groups in each category as pilot opportunities, to see how they fared in practice and whether any lessons could be learnt, whether good or bad, before extending the approach to other groups

and enlarging each category. One very positive approach was a small portfolio of premises which the scouts planned to take, which was a particularly effective opportunity both for the scouts and the council. The benefit of dealing with a major or established group includes a number of factors. These comprise a clear and established constitution of some type, established and stable management committees, and often the establishment of limited company or charitable status.

The role of charitable status, when properly investigated, can be particularly helpful. Over time, running costs such as rates are minimised, and for an organisation where revenue and outgoings are primary considerations, this can be very helpful. The role of rates plays an important part in the charity shops arena, especially for landlords and therefore has a disproportionate effect on the modern high street environment. This has naturally become a somewhat contentious point for some.

Strategic approach

Most local authorities in the UK have a community asset strategy or policy. This area has been considered most closely in Wales and Scotland and national guidance, which in Wales was published some years ago, and includes an excellent range of examples and case studies. This is now due to be updated. Given this approach to the community asset sector and the supportive holistic environment for such initiatives in Wales, the early introduction of community expressions of interest in properties in England was perhaps unexpected. Alternatively, it can be considered as a relatively isolated answer to the issue of public house and village shop closures, which seemed to develop quite a high profile in national debate at one point.

An interesting point evolves when proposals move out from the community asset arena into the commercial or self-funding arena. The Oxford based Ethical Property Company is perhaps the largest, most established and effective organisation, providing a wide range of community spaces and offices, retail and other asset opportunities. This is quite clear; the company pays dividends and with the usual governance arrangements of such a corporation, it is unambiguous in its role and purpose. It has reached a scale where quite ambitious development schemes are being undertaken. Coincidentally, the

company began in Bristol, with its first property located there, and is now carrying out quite a significant development in the major Temple Meads Enterprise Zone. This Enterprise Zone is considered to be one of the biggest in Europe.

Coordinated strategies

However, in these times of austerity, revenue income is particularly important. How can a local authority ensure that it is getting value for money from its community assets? The clear integration of the corporate strategy, property strategy and medium-term financial plans can be extremely helpful. This ensures that the qualitative and the quantitative are considered effectively and matched. Naturally, there is a significant input for local councillors in considering these areas, since key factors such as health, education, recreation and job creation are likely to be the most important and significant qualitative factors. While national and local performance indicators are extremely useful, the frameworks and ability to support these are not as strong as they were following the years of austerity.

The September/October edition of the Harvard Business Review flagship article emphasises the need to avoid confusing numbers and metrics with strategy. Where this occurs, this conflation is called 'surrogation' and can be found in all sectors. While early asset management guidance may have had appropriate grounds for being criticised, at least the performance indicators were clearly linked to strategic objectives. The requirement to develop and record these, along with other organisations, laid the effective and early opportunity for good quality benchmarking. This enabled its strategic and operational use as a business tool. Happily, strategic asset management is returning to prominence as the effective means of managing what is usually the second biggest resource after staff.

Having established the political environment, strategic background and methods of performance monitoring, this enables us to consider community assets properly. Where public sector organisations, especially local authorities, perform an enabling, rather than a doing role, this is essential. The allocation of resources, their monitoring, and the clear determination of effective and efficient value for money - or not - can then be established and reported on.

Monitoring and commercial considerations

The sometimes crude early approach of local authorities in particular, to get assets "off their books" can be revisited in a much more enlightened and mature manner. A central issue can now be whether the qualitative benefits of a community asset use create enough community value that an element of pump priming is actually rational or desirable. The big objectives referred to earlier - environment, health, education, jobs - are central to this. That is why the combined authorities had these as their central objectives and continue to monitor them closely.

Major local authorities can then consider whether some income-producing properties should actually be part of a portfolio mix for the community asset environment. Although council revenue is important, this should not be considered a heretical concept. In the commercial and business world, companies regularly leave sectors where they are too big or cannot compete effectively on a competitive advantage. As strategic enablers, authorities can facilitate this to achieve targeted and beneficial local objectives. In order to measure outputs and outcomes, appropriate indicators can be used. Given the key areas of environment, health, education and jobs, strategic benchmarking of these outcomes should be perfectly possible. The provision of income-producing opportunities to pump prime community initiatives is therefore a perfectly rationale opportunity, if monitored and measured properly.

Conclusion

Through this route, strategic asset management could really come into its own as a coherent and recognisable benefit across the public sector. Despite working in the sector for many years, there has always seemed to be a lack of appreciation of the benefits it can bring, particularly among mainstream management, who in fact are the ones whose services might most benefit. For those on the asset side, individual transactions and shiny regeneration opportunities seem to have meant this great opportunity has become less desirable and has somewhat fallen by the wayside. Hopefully the return of asset management, and particularly the corporate landlord role towards centre stage, might reinvigorate this area.



CAR PARKS FOR HOMES

Pioneering study highlights potential to deliver new homes across the country

Ian McGuinness Ian.McGuinness@knightfrank.com

Ian is a Partner at Knight Frank and the Head of the firm's Geospatial Research Team, a capability which provides a clearer understanding of spatial, demographic and economic factors affecting the housing market. He has 12 years' experience in spatial information management, data visualisation and mapping technology. He is a chartered geographer, chartered land surveyor, the winner of the British Property Federation's 2018 Innovation Award, and of the Society of Property Researchers 2018 Annual Prize.

Ian previously worked in planning policy at the London Borough of Newham, and for demographic data provider CACI.

Ian spoke at 2019 ACES National Conference about using big data and global digital mapping. He outlined a recently government-commissioned research project which identified publicly owned car parks which could be redeveloped for housing. The MHCLG has cleared this news release specifically for use in the Terrier.

A ground-breaking study, conducted by global property consultancy Knight Frank, on behalf of the UK's Ministry for Housing, Communities and Local Government, has highlighted the scale of potential development land tied up across England's car parks.

This is the most ambitious research of its kind ever undertaken; by identifying 103,000 surface car parks across England, Knight Frank has mapped the precise location and extent of every surface car park currently held in public ownership.

Considering the UK government's housing target of 300,000 homes p.a., the firm's mapping exercise has identified that there is a 7-year housing land supply sitting on surface level car parks. The study found that two thirds of surface car parks do not appear to support any retail, and 91% of public sector surface car parks have another such car park within a 5-minute walk. By selecting the best 15% of public sector owned car parks, Knight Frank has provided a shortlist of potential sites that MHCLG's stakeholder departments are now considering for disposal. These specific sites offer a very compelling opportunity for the public sector; combined, they have the potential to deliver 110,000 new homes, which in turn would raise an additional £6bn in land receipts for HM Treasury. The potential for further development on other car parks is very significant.

Ian McGuinness, Head of Geospatial

at Knight Frank, commented: "What we have learned from this new research has evolved our own understanding of this market and the opportunity for government departments to work together to deliver housing. Through this work, MHCLG has created the first detailed picture of which central government departments, and their subordinate agencies, own the country's car parks.

"Two urban councils in England have more than half of their surface car park provision tied up in public sector ownership. One central government department controls surface car parking equivalent to 200 football pitches."

The exercise has momentous implications for the places vehicles are currently stored during the day. Cars across the country create a land footprint of 43,500 ha in parking bays, once they are out of driveways. That is more than twice the land area of every surface car park in England combined, with the remaining provision spread across multi-storey blocks, on street and informal parking.

McGuinness, continued: "The pace of development of autonomous vehicles means we should already be thinking about the scale, location and utility of space currently tied up with privately owned vehicles. The figures are compelling – according to one ReThinkX study, personal car ownership could drop as much as 80% over as little as 15 years."

The support you require

We understand the changing priorities for the public sector and the need to strike a balance between improving asset performance and demonstrating value for money.

Knight Frank can give the support you require, providing a range of specialist skills and market intelligence, to ensure that you can deliver the best outcomes.

We are approved suppliers on a number of government frameworks, making it easy for you to work with us.

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Ministry of Housing,
Communities &
Local Government

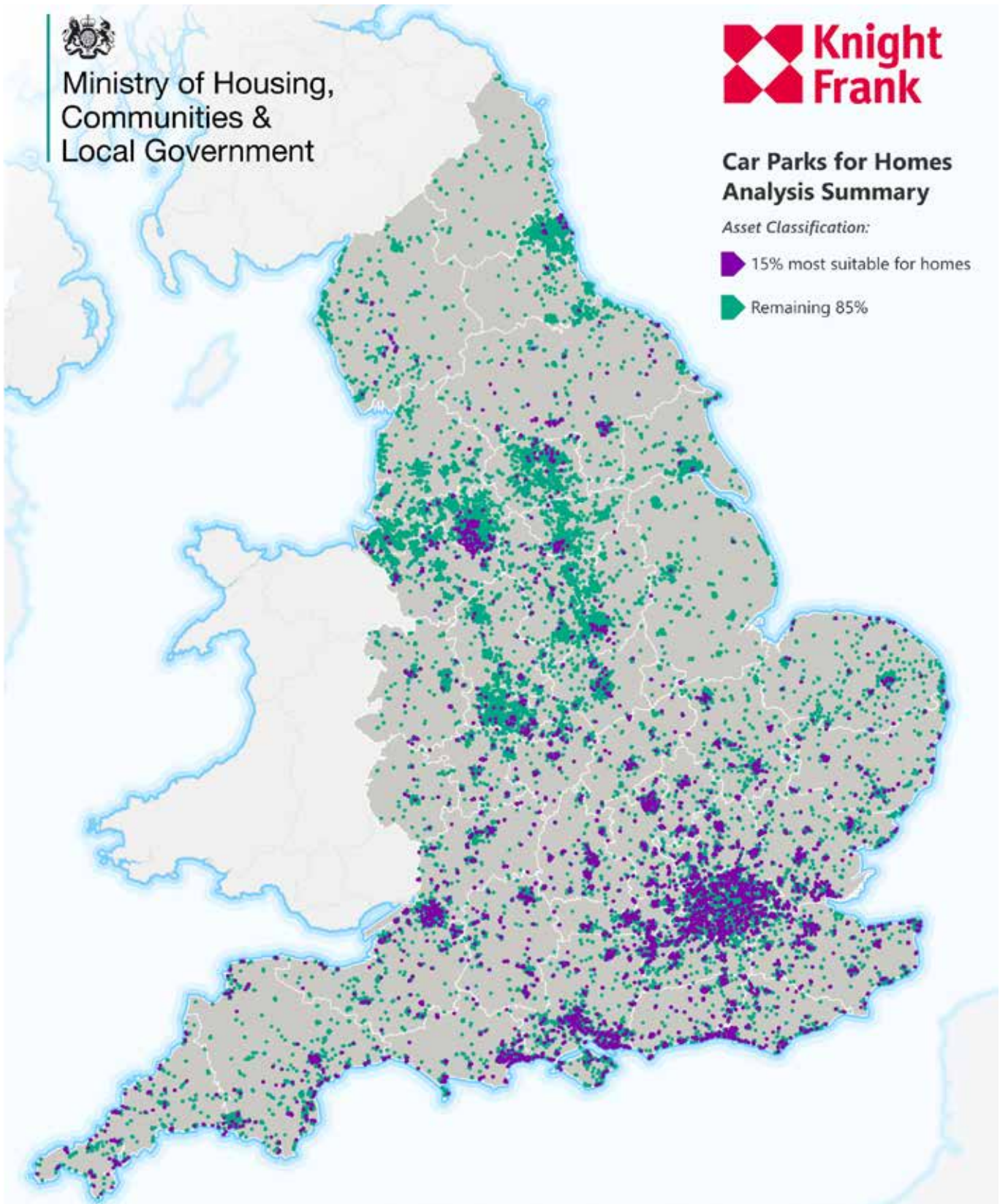


Car Parks for Homes Analysis Summary

Asset Classification:

■ 15% most suitable for homes

■ Remaining 85%



A reduction of this scale in the UK would see a drop from 37.9m to 7m vehicles. While some of that figure would be made up by new fleets of autonomous vehicles, these are intended to be used for much greater proportions of their charge cycle - designing out both down time and storage time.

Ian has provided for ACES/Terrier some stats from the data analysis used in estimating this potential:

- 43,585 ha: the physical footprint of all of the UK's cars, measured in parking bay sizes
- 20,000 ha: land currently in use as surface car parking in England
- 7,555 ha: area of all public sector car parks
- 2,161 ha: area of most suitable public sector car parks
- 300,000: number of homes needed p.a. under the government's annual target
- 1,000,000: number of homes which could be accommodated on existing surface car parking, using brownfield density guidelines.



Kevin is a London based public sector surveyor involved in asset strategy development, assets consolidation, rationalisation and disposal.

ECO-TOWNS

Do they have a future?

Kevin Joyce - nevskyuk@gmail.com

Kevin outlines the features of a case study building in Bicester, as part of the initiative to create an eco-town. Kevin questions whether this will become the norm, given the tightening of the targets towards zero carbon emissions.

Background

With the UK government introducing an amendment to the Climate Change Act this June to incorporate a net zero carbon emissions target by 2050, this could be an appropriate time to reflect on what progress has been made in the creation and development of UK eco-towns over the last decade.

In 2007, the DCLG announced a competition to build up to 10 new eco-

towns in the country, with 15 sites being short-listed by April 2008; by July 2009, this list had been reduced to 4 locations, to share a £60m government grant to support local infrastructure. The locations were Whitehill-Bordon in Hampshire, St Austell and Clay Country in Cornwall, Rackheath in Norfolk, and North West Bicester in Oxfordshire.

The sustainability standards that the eco-towns would need to meet included a requirement for the towns to be zero-carbon over the course of a year (excluding transport emissions); deliver a minimum of 30% affordable housing and a minimum of 40% green space; ensure that at least one job opportunity per household was accessible either by walking, cycling or public transport; ensure also that there were shops and a primary school within easy walking distance of each household; provide a mix of housing types and densities; and put governance structures in place through which residents would have a say in how their town was being run.

Case study: Bicester

In July 2010, the Conservative/Liberal Democrat government coalition had cut funding back in a climate of economic austerity, and by April 2011 it was announced that only one eco-town at North West Bicester would be built to the original proposed standards. A government 'Eco Town Planning Statement 1' gave North





West Bicester the green light in 2015. The town's masterplan is looking to deliver 6,000 zero carbon homes, 4,500 new jobs, 40% green space to include a nature reserve and country park, community and recreational facilities, on-site energy generation, and an integrated network of road, cycleways, footpaths and public transport links. Bicester has now been awarded a Garden City designation.

A key part of an eco-town development is likely to be its local employment facilities, built to meet exacting sustainability standards. Located in the centre of the new development, the shared workspace at Bicester Eco Business Centre is a flexible 3-storey, hybrid concrete frame building designed by architects, Architype. The building is the first of its kind in the UK, designed and built to the ambitious Passivhaus Plus standard, as well as the BREEAM Excellent standard. Besides being constructed using a selection of materials to lower the embodied carbon, the centre has been designed to achieve net zero carbon in operation. The Centre's eye-catching visual appearance features Siberian larch

wooden fins wrapped around the building envelope, designed to prevent over-heating in summer but not at the expense of natural daylight to the building.

Internally, the Centre is arranged around a triple-height atrium, top-lit by a central rooflight, with each floor having internal and external balconies, and the work spaces comprising a mix of offices, consultation spaces and breakout areas, to cater for shared workspace users. Architype has looked to create a healthy workplace, eliminating excessive use of artificial lighting and heating, and triple glazing, combined with the central rooflight, to ensure that the Centre has abundant natural light.

The Centre is the first Passivhaus Plus certified non-domestic building in the UK, and has been well received by the local council. Councillor Lynn Pratt, Cherwell District Council's lead member for Estates and Economy, stated that *"Cherwell is fully committed to investing in new projects that have a strong social, economic and environmental impact. This building has been carefully designed to maximise natural resources, provide a healthy environment and*

be as energy efficient as possible, presenting new opportunities for small businesses."

Architype's Lee Fordham commented that *"It is always brilliant to work with a client that prioritises quality and sustainability. This project has been a fantastic opportunity to bring together Architype's expertise in both building performance and low-carbon design into a commercially viable scheme that could form a precedent for other buildings of this kind in the UK."*

The location of an eco-town in a greenfield setting means that master planning would need to have regard not just to the built environment to be created, but also to the impact of development on what are likely to be surrounding rural landscapes. The Bicester Eco Business Centre, for example, enjoys views across the surrounding East Oxfordshire countryside. Successfully reconciling tensions between town and country priorities can present a myriad of design challenges, but also offer opportunities to overcome these challenges with innovative thinking around design solutions, and there are some very good examples of how this can be achieved.

As far back as 2003, Grimshaw Architects designed a new Rolls-Royce manufacturing plant and headquarters on a derelict rural industry site at Goodwood in the South Downs in West Sussex. The 50,000 sq m complex is partly sunken into the ground, to blend the plant into an outstanding rural landscape. The buildings on site all have green sedum roofs and red cedar panel cladding. 400,000 new trees and shrubs are also planted on site, and the development was awarded a BREEAM Excellent rating.

The future?

Are we going to see new eco-towns designed and built in the years ahead?

I suspect that we will. With extensive public awareness about the damage that carbon emissions are causing to our climate, and notably now in younger generations, the value that the creation of healthy and sustainable living environments can bring to combating adverse climate change appears likely to becoming increasingly embedded in the public consciousness over time.

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SOCIAL HOUSING STIGMA

Tackling the social housing stigma – the need to fit in, not stand out

Ken Morgan kmorgan@jrp.co.uk

Ken is Head of the Public Sector Regeneration Team, having joined John Rowan and Partners in 1998. He is an expert in asset management and achieving best value for money and social return on investment (SROI) for public sector landlords. He has a high profile in the industry as a Fellow of RICS, a board member of the Chartered Institute of Housing (CIH) and of Croydon Churches Housing Association. He served as a board member of the Sutton Housing Partnership for the maximum term of 9 years.

Ken has particular expertise around the Homes England regulatory environment, risk management, reactive maintenance, and value for money.

Ken discusses what the sector is doing to tackle the social housing stigma, and how asset management and taking a positive approach to regeneration is making a difference.

The reality

The UK affordable housing sector is one of the best in the world – today housing associations and local authorities across the country are producing incredibly high-quality housing developments which focus on both community and inclusion. At the same time, we know that outside of the sector, a social housing stigma still exists.

A government Green Paper published in August 2018 aimed to tackle the stigma associated with social housing. With 5 core themes, it sought views on celebrating thriving communities; expanding supply and supporting home ownership; effective resolution of complaints; empowering residents and strengthening the regulator; and ensuring homes are safe and decent.

Those of us working within the sector know the importance of tackling social housing stereotypes and the fact that these damaging views risk unfairly marginalising whole sections of our communities. Recent research has shown that social housing tenants exposed to this stigma say they feel 'less of a person', just because of where they live. It's as if they're labelled, with unfair assumptions made about their lifestyles and morals.

A year on from the report, we wanted to look at the ways some of the housing associations (HAs) and LAs we work with have been tackling the issue of stigma through their maintenance programmes. We believe best practice asset management and maintenance programmes which aim to help social homes blend in with their private neighbours are key to this.

So, what can be done?

Of course, there are pressures on council and housing association budgets – it was ever thus. But what about all those older flats and houses that already exist? When it comes to the regular refurbishment, renovation or redecoration that's scheduled, is it just a case of replacing like for like, repainting with the same colours, or using the cheapest materials?

We believe there is a real opportunity for taking a fresh look at these homes and asking what could be done differently. After all, good design and the way buildings look and fit in with their environment can have a major impact on all residents, and the wider community.

Designing out stigma

The design and 'feel' of a building often serves to highlight social housing, setting it apart from private residences, but this need not be the case. Why should social housing necessarily have to be fitted out to a lower spec, or have a different door colour to everyone else? We've worked with HAs and LAs who have shown that social properties can in fact blend in and become a much more integrated part of the wider community, engendering a sense of pride, inclusion and belonging. Now the standard approach for many new developments, this approach taken through the maintenance and refurbishment of affordable housing can pay dividends.

There are lots of areas where landlords

have been making a positive difference through asset management. It might sound obvious, but many of these can be missed off the list when it comes to social housing – giving a not so subliminal message about such properties being somehow less worthy.

What do we think the focus should be on? Good landscaping (both soft and hard) with well-kept communal gardens. Using good quality paving blocks on walkways, which help residents avoid the risks of slips or trips? Is there good lighting as you approach, are there motion sensors in place, and is the entrance door smart in appearance, and equipped with controlled entry? If the building is also occupied by private tenants, then ensuring that social housing occupants come in via the same door, and not a separate entrance, can make a big difference. One door can fit all!

Look for opportunities to improve appearance, for example, rather than undertaking isolated patch repairs or small areas of repointing on the external elevation which stands out. We've worked with clients who take the more costly, but positive, approach to repoint or repaint the entire area, while also improving fences, gates as well as window frames, fascias, etc., greatly uplifting the external appearance.

Is the entrance door to the block, and to the individual home, painted in a fresh, bright colour, and does this colour blend in with the nearby private housing? We believe that you shouldn't be able to tell that a building is occupied by social housing tenants just by the colour of the front door.

Flat roofs have been replaced with pitched roofs, which are known for their longevity and durability, meaning maintenance is often less of a focus compared to flat roofs. Using LED lighting in entranceways, stairwells and inside individual flats/houses, and looking at

the flooring, are a number of options that we have found deliver durability, are low maintenance, while still looking smart and welcoming.

Inside the properties, we recommend looking closely at kitchen units and worktops. If you're going to replace them, look for items with a better quality and finish, which generally results in greater longevity.

Wooden flooring can be a good option for longer life and low maintenance. Some recent projects have included feature walls. It's these small touches that can help give an inexpensive sense of individuality from one flat to the next.

If in doubt, ask

Some of the most successful maintenance projects have asked tenants what they'd like to see? While we appreciate you can't promise them everything, we've seen that an openness to their ideas will mean you pick up some great suggestions that you can incorporate in your plans.

There are costs involved, of course, just as there are with any refurbishments or renovations. We don't believe, however, that this approach needs to cost substantially more. Smart thinking and the willingness to explore alternative options will help identify ways of upgrading assets in such a way that will deliver longer term benefits for maintenance, upkeep, the lifetime of assets, and importantly, occupant satisfaction.

Lower maintenance properties are better for all – residents have less cause for complaint to, and about you, as the landlord; costs and time spent on issues are both reduced. Instead of reinforcing segregation and 'difference', this approach has helped to deliver inclusion, while at the same time, protecting and enhancing the assets of HAs and LAs.

Showcasing asset management

With such thoughtful renovation, we have seen that well-maintained properties are then viewed differently within the community, making them less likely to be the source of complaints (from both occupants and other local residents). At the same time, it could make it more likely that future planning applications for new social housing will be looked upon favourably by the community, as the historic social stigma will have been much reduced, if not removed altogether.

We believe there is a great opportunity to help set a new standard for asset management, by developing design and maintenance manuals which can be used across the sector. But to achieve this, it needs to be driven by boards and committees who can provide clear direction, and challenge the maintenance process.

These examples show how the sector is helping to raise the bar for asset management and deliver more inclusive communities. The development of a common accepted standard could be adopted by all social housing landlords. Together let's look at our social housing stock and ask how we can make it fit in, not stand out!

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The Terrier

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LEGAL UPDATE

Presentation at ACES' National Conference, Isle of Wight

Antony Phillips antony.phillips@fieldfisher.com

Antony covered some of the latest developments in real estate law over the last 12 months. He covered the following topics:

1. Overage
2. Specific performance
3. Section 84 – modifying and discharging restrictive covenants
4. Frustration and Brexit
5. Section 21 consultation – residential leasehold reforms.

Overage

Principles:

Overage provisions are common on the sale of land where there is a possibility of the land being developed at a later date, potentially giving the buyer a 'wind-fall' in terms of the increased value of the land. A seller can mitigate this by including a provision in the sale contract whereby, on the occurrence of a future event (such as the granting of planning permission), an additional payment is made by the buyer to the seller. This is often called the 'trigger event'. The contract should provide for how that payment is calculated (often a percentage of the increased value of the land or a percentage of the profit from any development). There is generally a long-stop date included in overage provisions, after which the overage provision falls away.

Almost every year, there are cases relating to disputed overage provisions – often the issue is whether the 'trigger' event has occurred or how overage is calculated.

The Cases:

Gaia Ventures Ltd –v- Abbeygate Helical (Leisure Plaza) Ltd [2019] EWCA Civ 823

The sale contract contained an overage provision requiring the developer to pay overage 3 months after an "acceptable planning permission" was obtained and other interests in the site were acquired.

The developer was required to use "reasonable endeavours" to satisfy the requirements by the longstop date (after which no overage was due).

The developer satisfied the overage requirements 4 days after the longstop date. The seller argued that the developer had not used reasonable endeavours to do so before the longstop date and, as such, contended that overage was payable.

The court held:

- The developer had deliberately manipulated the timetable to avoid paying overage; and
- If the developer had used reasonable endeavours, the requirements would have been satisfied before the longstop date.

As such, overage was payable.

Loxleigh Investments Ltd –v- Dartford Borough Council [2019] EWHC 1274 (Ch)

The seller had previously applied for, and been granted, outline planning permission for 5 houses on a piece of land. The seller then sold the land with the benefit of that planning permission. The sale contract contained a provision that overage was payable if "any planning permission" was granted for the site.

The developer obtained detailed planning permission for the 5 houses (for which outline permission had been granted). The seller argued that 'any' planning permission included detailed planning permission out of the pre-existing outline permission. The developer contended that the provision meant 'any other' planning permission.

The court held:

- There was nothing in the provision to suggest that an unpredictable event was necessary; and

- In the absence of a statutory definition, the ordinary and natural meaning is applied and detailed planning permission was 'planning permission' even though it was granted out of the outline permission (i.e. it did not need to be granted out of an entirely fresh application).

Accordingly, overage was payable.

Overage – lessons learned:

1. Be clear what is being agreed in terms of:
 - a. Trigger events
 - b. Calculation of sum payable on trigger event; and
 - c. Steps required before longstop date.
2. Think through all loopholes (and avoid them).
3. Get a good lawyer to do the drafting!

Specific performance

Principles:

If a party is in default of its obligations, the party to which those obligations are owed can apply to court to seek an order requiring the defaulting party to comply.

The court will consider:

- Whether there has been a breach of the obligation; and
- If so, whether it would be equitable for the party in breach to be required to comply.

The factors that the court will take into account when considering the question of equity include:

- The seriousness of the breach;
- The flagrancy of the breach; and
- The adequacy (or otherwise) of damages.

The Cases:

Blue Manchester Ltd v North West Ground Rents Ltd [2019] EWHC 142; [2019] PLSCS 30

The case related to Beetham Tower, a 47-storey tower in Manchester. The landlord had an obligation in the leases granted to the tenants in the building to keep the common

parts, including the external glass façade of the tower block, in good and substantial repair. However, there was no ability in the leases to recover common parts expenditure through service charge from the tenant in circumstance where the cost of repair was due to the inherent/design of the building or construction-related defects.

The sealant attaching glass panels to the frame of the building began failing in 2014. The landlord put in place a temporary fix (which was unsightly and had a lifespan of 3 years) and argued that this was sufficient in order to comply with its repairing obligation. The tenant disagreed, arguing that, for a building of this nature (which included a hotel on the lower floors and apartments on the higher floors), the landlord was required to carry out a long-term repair (which, in effect, meant replacing the glass units).

The tenant sought specific performance of the obligations and a like-for-like replacement of the glass units.

The court held:

- The nature of the temporary solution meant that the landlord was in breach of repairing obligation in that a 3-year temporary fix would require ongoing maintenance and inspection which would disrupt the tenant's business; and
- Damages were not an adequate remedy in these circumstances.

The Court therefore granted specific performance, requiring the landlord to carry out a full like-for-like replacement of the glass units.

Zinc Cobham 1 Ltd (in administration) and others v Adda Hotels (an unlimited company) and others [2018] EWHC 1025 (Ch); [2018] PLSCS 92

The landlord and tenant were parties to leases for 10 'Hilton' brand hotels requiring the tenant to maintain the hotels to certain (very specific) 'Hilton standards'.

The landlord alleged that the tenant was in breach of those standards and sought specific performance of the brand standard obligations. The cost of remedying those breaches was some £100m.

The court held:

- There was a breach by the tenant; but

- Damages were quantifiable and the landlord's loss was significantly lower than the cost of works (i.e. considerably less than £100m).

Accordingly, the court exercised its discretion against the landlord and refused specific performance but, instead, awarded damages.

Specific performance – lessons learned:

1. The claimant needs to show that there is a breach but that, in itself, is not enough. The court also needs to be satisfied that its discretion should be exercised in favour of the claimant and that the defendant should be forced to comply with its obligations.
2. On exercising its discretion, the court will generally consider:
 - The seriousness of the breach
 - The flagrancy of the breach; and
 - The adequacy (or otherwise) of damages.

Frustration

Principles:

There exists a legal principle whereby a party can be relieved of its obligations in a contract (such as a lease) where certain circumstances exist. These are where, since the contract, the following has occurred:

- There has been an intervening (unforeseen/unforeseeable) event
- Such an event has made the contract a radically different thing; and
- The contract has been rendered incapable of being performed.

Examples: war, civil unrest, changes in law (creating illegality), destruction of subject matter. The lead case is Krell v Henry (1903) 2 KB 740 (relating to the postponement of the coronation of Edward VII).

The Case:

Canary Wharf (BP4) T1 Ltd v European Medicines Agency [2019] EWHC 335 Ch [2019] PLSCS 37

The European Medicines Agency (EMA) was the tenant of a relatively long lease of an office building. The EMA is an EU agency and, under EU law, it must have its headquarters in an EU country. With the UK leaving the EU, the EMA argued that the lease was frustrated.

The issues for the court were:

- Does Brexit create a significant change to the nature of the outstanding contractual rights/obligations?
- Was this an event not reasonably in the contemplation of the parties at the time of the lease?
- Was it unjust to hold the tenant to those obligations?

The court held that:

- Even if it was unlawful under EU law for the tenant to occupy the building, it was not unlawful under UK law;
- In any event, there was no common expectation between the landlord and the tenant at the start of the lease as to what may or may not be the case in the future – it was a commercial landlord and tenant deal; and
- The tenant had other options in relation to the lease – it could assign or sub-let.

So the court held that the contract had not been frustrated.

Frustration - lessons learned:

1. Frustration is often argued, but rarely successfully;
2. The criteria is very strict and difficult to fall within; but
3. Frustration can be an effective principle in the right (albeit rare) circumstances.

Modifying/discharging restrictive covenants

The principles:

Section 84 Law of Property Act 1925 provides grounds where the party with the burden of a restrictive covenant as to user may apply to the Lands Tribunal to modify or discharge the covenant. Such grounds are:

- That there have been changes in the character of the property or the neighbourhood rendering the covenant obsolete (section 84(1)(a))
- That the existence of the covenant impedes some reasonable use of the land for public or private

purposes (s84(1)(aa))

- That there has been express or implied agreement in relation to the covenant (s84(1)(b)); and/or
- That there will be no injury to the beneficiaries by discharge or modification (s84(1)(c)).

S84 applies to freehold covenants and certain long leaseholds. It only applies to user (and not any other type of) covenants.

The case:

Shaviram Normandy Ltd v Basingstoke and Deane Borough Council [2019] UKUT 256 (LC)

An office building was let on a 150-year lease (granted in 1985). There were restrictions as to:

- Use – it could be used as an office only; and
- Other restrictions – consent was required for underlettings.

The tenant wanted to convert the building to residential use (buy-to-let) and be released from the underletting controls. It applied to the Lands Tribunal to modify covenants, mainly on the basis that the covenants impeded the reasonable use of the property (s84(1)(aa)).

The Tribunal looked at the value difference between the building with office use and residential use and found that:

- Office use: £3m value + £160,000 p.a. rental income
- Residential use: £3.125m value + £144,500 p.a. rental income.

It also considered the changing nature of the locality and found that many of the surrounding buildings were residential or had become residential.

The Tribunal held:

- The user under the lease had no benefit to the freeholder and the reasonable user was impeded, so the covenant should be modified to allow residential use; but
- In terms of the underletting controls, they should remain in place as they did not fall within s84 and, in any event, were not obsolete.

S84 - lessons learned:

Where there are freehold/long lease restrictive covenants relating to user which are inhibiting the use of the land, do bear in mind s84. It may assist the party with the burden of the covenant to:

1. Release more value
2. Adapt the property in a changing environment; and
3. Make an otherwise redundant property useful.

Section 21 Housing Act 1988 - proposed repeal

The government has released a consultation paper proposing the repeal of s21 Housing Act 1988. This was announced in April 2019 and the consultation continues until 12 October 2019.

S21 differentiates between:

- Assured Shorthold Tenancies (ASTs) - where no ground is needed for the landlord to recover possession at the end of the tenancy; from
- Assured Tenancies (ATs) – where the landlord can only recover possession where it can establish one of the prescribed grounds (which relate mainly to tenant default).

The consultation proposes the abolition of ASTs in both the private and social sector. It also proposes extending the grounds for possession to include where a landlord wants to sell the property or use it for him/herself or their family.

The pros and cons of reform include:

- Pros:
 - Give further security to residential tenants; and
 - Make retaliatory possession less likely.
- Cons:
 - Some (individual and institutional) landlords may be deterred from investing in or retaining residential property and, if so, that could lead to:
 - Shortage of letting stock
 - Increased homelessness; and



Roger is a Director in Lambert Smith Hampton's Chelmsford office, and spends his time dealing with compulsory purchase work and land acquisition, principally on behalf of local authority and public sector clients. For the 8 years prior to 2017 he was, first, Head of Strategic Asset Management at Essex County Council, and then similarly for LGSS, the shared service organisation supporting Cambridgeshire and Northamptonshire County Councils. Roger returned to LSH in 2017 to concentrate on compensation work, helping to co-ordinate LSH's national CPO resources. He is currently supporting LSH's contracts for HS2. He is the ACES Compulsory Purchase and Compensation Coordinator, as well as being a longstanding member of the Compulsory Purchase Association.

COMPULSORY PURCHASE

The Compulsory Purchase Association Conference

Roger Moore - RMoore@lsh.co.uk

Roger provides a brief resume of the CPA's Annual Conference held in July. Roger remains concerned at how few local authority and ACES members reflect a commitment to the important area of CPO.

CPA Conference

The Compulsory Purchase Association (CPA) held its Annual Conference on 10 July in London. Once more it was salutary to note that although the conference had its highest ever attendance, reflecting the increased use of and importance of compulsory powers, there were very few attendees from the public sector itself. Accepting that authorities tend to use consultants for strategic and compensation advice, it was still worth noting that the interesting case studies we saw (including Leicester City Council) often had local authority clients, so there must be a concern about the ongoing level of public sector client-side specialist knowledge.

There was an update on HS2, describing the current number of claims under Phase I, particularly around Euston Station and in Birmingham, and the progress of Phase 2a and 2b. It also noted the establishment of a "Claimants Advisors' Forum" being set up to represent the interests of those with land taken under a CPO. HS2 is dealing with many CPO issues, which may well set the tone for other schemes, and acquiring authority involvement in the CPA also needs to try and have a voice in that process.

Key areas to note were on the interaction with the Upper Tribunal, and how the award of costs can be influenced by the behaviour of the parties and the Tribunal seeking to reflect 'fairness' in its awards. One area that the CPA has developed recently is the use of a 'Land

Compensation Claims Protocol' (<http://www.compulsorypurchaseassociation.org/land-compensation-claims-protocol.html>), which sets how the parties should engage leading up to a reference in a disputed case, in an attempt to speed up and cut costs in the process.

The CPA is intending to take out a roadshow of information events in the Autumn, to highlight the development of the Protocol. The COPA acknowledges the importance of reaching the local authority sector. I have offered the ACES contact as a potential route into CPD events, or at least to advertise where their roadshows may be taking place, and will liaise with CPA as its plans progress.

Next year's CPA conference is likely to be in Birmingham, hopefully giving a wider range of those interested the opportunity to attend the event.

Other matters

There is little of significance to report in terms of technical updates, with no legislative or important case law updates in the last 12 months. A reminder that 2 potentially useful parts of the Neighbourhood Planning Act 2017, on revisions to interest payments, and the ability for acquiring authorities to take temporary possessions under CPOs, remain to be brought into force.

5G ROLLOUT

It's coming to a town near you soon

Mike is Estates Surveyor for Lancashire County Council and a member of ACES Council.

Mike Forster

Mike provides this useful contextual article about the development of telecoms. Thanks to Ericsson for allowing ACES to reproduce photographs from its website.

New networks

This step-change in telecommunication networks is set to revolutionise mobile networks and its uses. The internet of things, autonomous vehicles and the interconnected world will all need the new generation network to meet the need for significant increase in volume, availability of data services and speed of operation, also known as lower latency. The 5G network will require base stations with smaller footprints, as the allocated radio frequencies continue to rise up the radio band wavelength spectrum. Higher frequencies provide greater capacity but lower range. This results in the installation of additional indoor infrastructure, to allow penetration of external radio signals, known technically as an indoor repeater, which has an external antenna on the building and then re-transmits the signal indoors. This is likely to result in restricted dense zones of high capacity to support these new services.

These new sites are likely to appear first in city centres and along main transport routes. 2G is likely to maintain coverage for voice and text messages; 4G will continue to provide wide-area data capacity, until there is compelling justification for extending the

5G network. The new network will build on existing ones, adding layers of complexity in design, architecture and management, with a universal requirement to replace existing copper cables with fibre.

The UK is lagging well behind other countries in the provision of fibre connections and is therefore at a significant disadvantage at the starting point for 5G.

Small cells

A better solution being deployed by operators is 'small cells'. These are used outdoors to provide high capacity in a small area, usually in a dense urban footprint. Situated within city centres, these provide additional capacity, and this small cell layer sits underneath the overlying macro coverage. Some operators provide small micro radios which will cover, say, a town square, and provide some in-building coverage on lower floors of nearby buildings. There is also the "lampsite", which has a radio installation within the street-light and another recent addition is the "vault site" which has the radio site within a man-hole, the cover being the actual antenna, providing coverage up and down the street. (see illustrations).

Indoor small cells

The traditional type of indoor small cell is a Distributed Antenna System (DAS) whereby there is normal base station equipment in the basement of the building, that is, attenuated and distributed by internal RF cables to antennas around the building, office, shopping mall, airport, etc. DAS systems have some disadvantages in terms of cost and capacity, and better solutions have been introduced by some of the network providers.

A unique product introduced by Ericsson, called Radio Dot, has been introduced,





a total of £1,000 p.a. Under the “old” code, the rent had been agreed at £21,000 p.a. The practical implications of the new code have alienated many site owners and their agents, who are disinclined to cooperate around further apparatus. Until the Tribunal sets a case precedent on rental levels, many negotiations for new sites are being delayed.

The overlapping constraints on the deployment of the new 5G network therefore include: technical complexity, the need for many more cell sites, network range, financial feasibility, the possible non-cooperation of property owners, and the lack of fibre.

which is much more scalable and can provide higher capacity and at a lower cost over the traditional DAS systems. This can provide excellent 3G and 4G coverage, with impressive download speeds within an office. The first 5G Radio Dot systems are now being installed and can be used to provide coverage in stadiums (installed under seats), railway stations, airports, shopping malls, etc.

Roll out

5G will improve consumers’ mobile experience and help them enjoy faster internet speeds, a more reliable data connection in busy places, and a near-instant connection when opening apps and websites, playing games or connecting to smart home devices. It is not a replacement for 4G: it simply adds another layer to networks, providing a faster, smoother and better mobile experience.

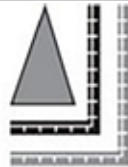
The BT Group is now rolling out 5G in the UK’s 4 capital cities: London, Edinburgh, Cardiff and Belfast; Birmingham and Manchester are to follow, then Glasgow, Newcastle, Liverpool, Leeds, Hull, Sheffield, Nottingham, Leicester, Coventry and Bristol.

All wireless communications including phone calls, texts or internet connections take place over radio frequencies; the higher frequencies used by 5G are faster and can carry more information, support more devices or Smart Things, all being used at the same time. The 5G network can also be “sliced” so that parts of the network can be dedicated to specific tasks, such as part being used for phones connecting to the internet and part being used for driverless cars. The use of 5G will oblige consumers to acquire new 5G phones.

Vodafone 5G masts are now in place at Manchester Airport, in the UK’s first 5G airport trial. This is the first of several travel sites where the telecom giant will be giving commuters the opportunity to use this transformative mobile technology.

The government has taken measures to support the rollout of the 5G networks. In 2016, the telecoms section of the General Permitted Development Order was revised to relax the rules on deploying such apparatus. In December 2017, the Electronics Communication Code was also revised, giving operators rights, in the absence of an arm’s-length commercial agreement at a market rent, to employ the Lands Tribunal to order their equipment to be deployed, even if site owners decline to co-operate. Rents for telecoms base stations are to be set in a similar manner to compulsory purchase in a no-scheme world basis, assuming existing use values, potentially at a peppercorn amount [Ed – see Michael Watson’s article to follow].

A Lands Tribunal decision in February 2019 (bit.ly/LandsTrib68) settled consideration for a base station at £50 p.a., with additional elements adding up to



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Michael is Head of Property Litigation at Shulmans. He leads the property litigation team, which encompasses the resolution of property disputes, management of risks associated with owning and occupying commercial property and estates, dilapidations, issues relating to telecommunications and mobile phone masts, and planning and construction.

Michael regularly presents seminars and CPD training both within Shulmans and externally, in-house for clients, for commercial CPD providers, and for the RICS. He also regularly writes academic articles on issues relating to property litigation, specifically in relation to dilapidations and telecommunications, where he is a nationally acknowledged expert.

ELECTRONIC COMMUNICATIONS CODE

Strategy to respond to a network operator's notice

Michael Watson mwatson@shulmans.co.uk

Michael outlines the options now available to property owners when faced with a network operator: for an owner "trying to be reasonable can be counter-productive". The options to receipt of a notice from network operators are explained below and should be thought about carefully before engaging.

A changing world

It is now nearly 2 years since the new Electronic Communications Code was brought into effect, as a consequence of the Digital Economy Act 2017. Many property owners are just starting to realise what the new code means for them, their properties and in some cases their businesses.

A wide range of property owners including Individual landowners, public bodies, residential management companies and commercial property investors, are all now starting to have to deal with volumes of correspondence from agents acting for telecommunications network operators, the essence of which is to say "give us the rights we want over your property assets or we will see you in court".

Many are finding themselves taken to court with all the ensuing inconvenience and expense that involves.

Previously 2G, 3G and 4G networks were built, and maintained, by way of a process whereby network operators worked with landlords to agree consensually the terms of agreements, which worked for both the property owner and the telecoms company. A process of negotiation would take place, terms would be agreed, documentation followed, and the mast was built. The world has changed; and it has changed fundamentally from the perspective of property owners.

Unfortunately, many property owners, often professionally advised, have not

recognised these changes. In many cases property owners, faced with an approach from a network operator, prefer not to accept the harsh reality of the situation and still believe that with a reasonable approach to negotiations, they will be able to come to an agreement that works for them and the network operator. Unless they are prepared to agree to the demands of the network operator, this is most unlikely and they will be taken to court.

Property owners who make naïve, early responses to network operators' agents can in fact prejudice their position (or that of their clients). Without clearly defined strategic objectives and a strategy for implementing them, trying to be reasonable can be counter-productive.

The first thing that any landowner should do upon receiving correspondence from network operators or their agents is pause. Even if the correspondence demands an acknowledgment within a specific period, then it is worth thinking about strategy before putting pen to paper, picking up the phone or even tapping out an email.

Property owner's responses to a notice

Upon receipt of a notice from the operators seeking to impose rights over their property, the landowner has a number of possible responses:

- Agree
- Agree in principle subject to terms being negotiated further
- Refuse.

Agree

If the landowner is minded to just agree to the demands of the network operator, then they should simply seek professional advice in terms of the drafting of the agreement and possibly the legal effects of it. This will cost money. It is a specialist and technical area of law and there are few experienced specialists in the field. Of course, a property owner does not need to take advice. The network operator will be quite content to provide a proforma agreement which the property owner can execute, and this will indeed save them significant professional fees. It is a brave property owner, though, who just signs up to a "standard" form of agreement prepared by the network operators.

These agreements will be creating rights over property which will exist for many years. The extent of the rights will be important in terms of what apparatus may be installed, where, and of course the arrangements for access to service and repair the apparatus. This can be burdensome and, therefore, property owners need to give very careful thought as to whether they will agree to the imposition of apparatus on their property. Once an agreement has been entered into, then it can be a challenge to remove apparatus in the absence of the appropriate provisions in the agreement, and the ability to address the statutory requirements for removal of apparatus, such as the ability to prove an intention to redevelop the site. There is only one opportunity to secure such terms, if they are likely to be required by the property owner.

In short, any property owner who is contemplating simply executing a standard form of agreement is adopting a low-cost approach, but potentially a high risk one. Even if the decision taken is to accede to the request of the operators for rights over the property, careful consideration should be given to the specific terms of the agreement imposing those rights over the property.

Agree subject to further negotiation

Prior to the implementation of the new legislation, the typical approach to telecoms

apparatus was for the network operator to use agents to approach a property owner, who would themselves appoint an agent; then there would be negotiations, with ultimately mutually acceptable terms being agreed, and solicitors then instructed to document the terms of the agreement. This worked well for 2G, 3G and 4G. The networks were built and operated, and the property owners were willing to make their assets available for telecoms use.

There is a natural tendency in the property world to think that everything is resolved by negotiating and doing deals. To this end, when approached by network operators for an agreement under the terms of the new code, many property owners not finding the terms offered attractive, particularly with regard to payment for use of their property, will naturally seek to engage in a process of negotiation with the network operator or their agents, to try to better those terms.

In the current climate this is most unlikely to be productive, and indeed, could be detrimental to the interests of the property owner. Before even acknowledging an approach from the operator or their agents, the property owner needs to consider their position carefully, look at what they want to achieve in terms of strategic outcomes, and then they need to put in place a plan to help achieve those aims.

The first response to an approach from a network operator or their agents could be of key importance when the property owner is taken to court and, therefore, it must be a very carefully considered and thought through response.

Property owners that immediately attempt to engage in a process of negotiation with the network operators may be both surprised and disappointed that their genuine attempts to reach accommodation with the operator are not making progress towards a consensual agreement. They may be even more disappointed to be threatened with court action, when they are trying to get a deal done. Their disappointment is likely to peak when they are served with their court papers.

The reality is that the sticking point is most likely to be in relation to payments; experience suggests that at the moment, attempts to negotiate on this with network operators are futile, potentially prejudicial to the landowner, and do not avoid court action by the operator. The reason for this is the operators taking the position that if they

proceed to court, then the sums the court will order to be paid under the terms of the legislation will be negligible.

Refuse

A property owner may not want electronic communications apparatus on their property for a variety of reasons. For example, they may consider it to be aesthetically detrimental to their property. They may consider the burden of repeated access at all hours of day and night to be something they do not want. They may be agreeable in principle, but not at the price being offered.

Whatever their reason, if they wish to refuse a request for a code rights agreement, they need to be prepared to defend their position at court; consequently, they need to have a strategy for doing so from day one.

All documentation that is created in relation to a site and a proposed agreement will potentially be disclosable, including emails, notes and so on. It is important, therefore, to think about the grounds upon which an agreement might be resisted, and the evidence that will be required to support that resistance at court.

Documentation that indicates the property owner has no objection in principle to a mast agreement, but is just not happy about the price being offered, will not be helpful. This will make a defence of the property difficult, with the network operators arguing that the only issue for the tribunal to consider is that of payment.

Conclusion

The reality of the situation at the moment appears to be that unless property owners are prepared to accede to the demands of the network operators, in terms of the form of an agreement and the payments for the use of the property, then they should expect to be dragged into court.

This is unfortunate, because the reality is that the country needs to roll out new telecoms apparatus as quickly as possible, to be competitive on the global stage, and the court process is not swift. Very few sites are being delivered through the courts, with cases sometimes taking well in excess of a year.

While many property owners would support the need for UK Plc to develop better connectivity, they do not see why they should have to subsidise the network operators, or their shareholders,

by effectively donating the use of their property assets. Unless they are prepared to do this, then they need to be prepared to defend them at court.

There are a number of issues that may be relevant to any such strategy; each case will need to be considered on its individual circumstances. In some cases, landlords may have leverage and may be able to resist the imposition of agreements. In some they may not.

Whatever their position, the key thing must be to make sure they do nothing to

prejudice their position, or that of those who instruct them, prior to carefully considered decisions being taken as to the desired outcome, and the options for delivering it. Even what appears to be nothing more than just polite routine correspondence affording the courtesy of a reply to an approach from an operator may ultimately come to be scrutinised by a court, and the contents of such correspondence could be important to the ultimate decision of that court.

Property owners who do not just want

to surrender to the imposition of rights over their property should not rush in, but instead should take time and advice before responding to an approach to place electronic communications apparatus on their property assets. Many property owners are now having to face the being taken to court, and are having to defend themselves. That is the reality of the situation, following the new code; property owners need to do all they can to ensure they are in the best possible position to defend their assets



ELECTRONIC COMMUNICATIONS INSTALLATIONS

Health and safety aspects for property owners

John Goodacre jgoodacre@hubtelecoms.co.uk

John is the director of Hub Telecoms Consultancy Ltd and has been working in the telecoms industry for over 20 years. With a legal and forensic background, John first worked for both the mobile phone operators and was retained by Airwave, the national emergency services network provider as a consultant, before heading the telecoms division of Hub Professional services. Based in London, he now advises a broad spectrum of asset and estate managers, including Knight Frank for whom he is a retained consultant on telecoms for Lot 3 of the Crown Commercial Services framework. Clients include London councils, police and fire authorities, hotels and universities.

John's article complements the previous one, and applies where landowners have accepted – willingly or not - plant and equipment on their land and buildings. He identifies the risks and makes suggestions, often frighteningly illustrated, as to what provisions should be brought into legal documents and independent structural checks made on site.

Introduction

This article will highlight some of the longstanding and ever-present health and safety risks that having a mobile phone operator on your land or building brings with it.

A number of articles have been written about the recent changes to the Electronic Communications Code and if you have a mobile phone operator radio base station installed on your land or building, you will probably be only too well aware that the driver for the legislative change was financial.

What is probably not so well known is that the Mobile Network Operators (MNOs) have not only been slashing rents by 99% in

towns and cities, but have also been cutting the levels of payments to the contractors who maintain their sites. This should be of concern not only to those contractors, but also to existing site providers and members of the public who daily walk past buildings, towers and masts with apparatus installed on them.

While the operators would have you believe that they only need to visit site on 4 occasions during the year to conduct annual maintenance visits, what they do not tell you is that in addition, contractors need to visit sites to rectify faults, alter, add to, swap or upgrade items of equipment. Consequently, a land owner or occupier of the building could find themselves having

to manage dozens of access requests each year from a multitude of contractors, including riggers, Ericsson fault rectification engineers, H&S auditors, Nokia etc.

Having managed access requests and kept a close eye on contractors for several years, it is apparent that some sites are more problematic than others. It appears that there is no single identifiable reason for this, but certainly the position of the equipment cabin in an open and sunny position does not help overheating issues, especially when the air conditioning units have been removed by the operator, but sometimes it appears that materials and build quality are a factor.

Whether this is a reflection of the quality of the design or of the designer is another matter. But as this article will set out, it is often the combination of the human and natural elements (weather) that brings risk to land owners.

The risks associated with having a mobile phone operator on your property

Depending upon where the site is located, its type and the care taken in its original design and installation, the risks can differ dramatically.

Farmers with lattice masts or monopoles on their land may experience livestock being allowed to roam free across fields or down roads as visiting contractors have failed to close gates behind them. Discarded boxes, plastic bags, cable ties, food bags and other rubbish, including human waste, can be eaten by livestock, adding to vets' bills. Access tracks can be badly damaged. Farmers find themselves having to remove rubble and sharp objects that have been used on access tracks by contractors trying to free their vehicle from the mud. All this requires the farmer to conduct regular checks, adding unnecessarily to the workload. It also adds to costs.

One small blessing for the farmer is that it is rare for their site to have members of the public passing by. However, this is definitely the case in urban areas where we have a totally different set of risks; these all start with the original design of the site.

Site design

Traditionally, an urban rooftop site will have the radio base station equipment installed either in a cabin that sits on a large raised steel supporting grillage on the roof, or



will be installed in an internal room. The trend now is for operators to use external weatherproof cabinets that are far smaller, do not require the use of a crane (££££s) and either sit flat on the roof surface, or on a smaller raised steel grillage. No need either for expensive air conditioning units to keep the inside of the cabins cool.

Antennas are either fixed to plant room walls or to poles located towards the edges of the roof. Again, the MNOs are using free-standing antenna support brackets that are weighted down with patio slabs when at all possible. For 5G installations, Mobile Broadband Network Ltd (EE and H3G) also use specially designed steel pods that are installed upon raised concrete upstands.

Impact upon roof surface

The free-standing cabinets and antenna support brackets lie directly upon the roof membrane, protected by a layer of expanded polystyrene. Factors to consider include the guarantee for the existing roof surface, the compacting of existing roof insulation causing ponding of water, the blocking of drainage of water from the roof, and resultant build-up of dirt and bio hazards that are not washed away by the rain.

Maintenance of the roof surface is also impacted. MNOs have a reputation for failing to cooperate with landlords in facilitating lift and shift. This adds delay, and potentially costs, where contractors have already been engaged to conduct works. Consequential damage can arise when water leaks are not repaired in good time. In many instances, we are aware that the MNOs have demanded that the costs of raising or relocating their apparatus

from the roof to facilitate repairs, renewal or maintenance, be paid by the landlord. If the owner of a building is unable to secure the cooperation of the operators to lift and shift their apparatus, to allow roof resurfacing works, parts of the roof may not be renewed. Under the new code, there is no provision for lift and shift, so site owners should ensure that the lease is amended to allow for this. The terms should also allow for the additional costs incurred to be recovered from the operator.

Structural damage

MNOs do not always employ structural surveyors to attend site when designing their base. Instead, a structural engineer will look only at the proposed new steelwork. We have noted that when deploying "flat pack" external cabinets that lie flat on the roof surface, often a CAD technician or "designer" only will be used. Their knowledge of building dynamics and wall construction is not so extensive and has, in our experience, led to structural damage being caused to buildings.

Walls that appear to be solid are nothing more than in-fill panels. Cavity walls are not identified. The untrained designers also fail to realise that lightweight wooden roof structures do not lock supporting walls together to create as strong a structure as a concrete roof. The photograph shows structural damage to plant room wall due to poor design, additional forces created by larger antennas, additional weight, and failure to consider the structure of the wall.

Even when they do, the provisions made for structural stability fail to take into consideration the rotational forces applied

to the structure by winds on the antennas or cabin located above. Consequently, the installation is compromised from the outset and damage that is costly to remedy is likely to occur over time.

Antennas

The sector antennas are located on support poles that serve 3 functions: 1 - to raise them high enough to prevent "clipping" issues (obstruction of the signals); 2 - to raise them high enough so that exclusion zones comply with H&S legislation; and 3 - to provide a firm anchor so that they do not fall off the building.

Many existing sites were designed and built over 25 years ago. The antenna support poles used either resin anchor fittings to secure them to brick walls, or sleeved through bolts fixed to large square or rectangular steel plates located on the inside of the wall.

These were designed to support the relatively short and narrow profile 2G and 3G antennas, not the massive 4G and 5G multi-array units with 8, 12 or more feeders. It is important to understand the existing installation, as upgrading of the antennas to these far larger structures may have failed to take into consideration the additional wind-loading and weight on the brickwork to which the antenna support poles are attached.

The addition to the poles of 3 or more Remote Radio Units weighing 15kgs each



and a Metreel ladder system also adds to the forces applied to the support brackets and building. Again, the MNOs structural engineer is usually instructed only to consider the steelwork, not the building. The list of assumptions that the Global Design Check lists is a good indicator of whether the risk of structural damage to the building has been considered.

Even where the structure has been properly designed, there exists the risk of failure, as the contractors have not been working from the latest construction drawings, or have not been provided with the correct materials to build the site to the specification. I know of a site where the top half of a long antenna support pole appeared to have sheared off in high winds. In fact, the contractors had simply failed to install all 6 holding down bolts in the joint plates. The stresses on the 3 that were installed were too great and these sheared in high winds. Luckily, as should be the case on all rooftop sites, the pole was held in place by the antenna feeder cables. It was lucky that the antennas were centrally located on a roof on a plant room, and that the sheared bolts and nuts simply fell to the lower roof level and not on to the pavement below. It was also fortunate that the antenna shroud did not separate from the frame. This would have been carried off the roof by the winds.

This highlights the need for supervision and a post installation inspection. The landlord can employ an experienced clerk of works for the most part, and a structural engineer for the critical elements. Doing exactly this protected one of our central London council clients from contractors wishing to install resin anchor fittings

in a non-structural hollow-fill brick wall. The same contractors attempted to build concrete plinths using half the number of steel reinforcing rods specified by their designer, as they had failed to bring enough with them to site.

More land owners are reporting incidences where structural damage is being caused to the building by the antenna support poles. In some instances, the consequences could be catastrophic. Certainly they are expensive to remedy. Actually, getting the MNOs to investigate the issues and accept responsibility is another matter.

That the operators themselves have published documentation for their contractors highlighting this issue underlines the need for land owners to get regular independent structural checks carried out whenever MNOs apply to upgrade existing or install more apparatus.

Antenna positioning

In order to allow pole mounts to be shared, MNOs will add off-set brackets, to allow 2 antennas to be fixed to the same pole. Consequently, some overhang the edge of the roof. Mast Head Amplifiers (MHAs) are added to these poles and brackets.

Occupiers of the building and passers-by may be placed at immediate risk by contractors working on the MHAs, feeder cables or antennas directly overhead. Very rarely have any of these installations been designed to allow high level catch netting to be installed. A spanner, nut or bolt dropped from the roof of any building could have a catastrophic impact on persons below. We know of contractors applying to



While the MNOs will happily assure you that all their contractors are well trained, experienced and professional, it is our experience that many are not. We have witnessed riggers wearing fall arrest harnesses, free climbing up to antennas on top of an 11-storey block of flats; another working over the edge of a roof without edge protection, with both scaffold hooks safely tucked into his own harness. This highlights the importance of managing and supervising contractors.

The rigger pictured on the roof has no edge protection, is unconnected to any fall arrest or fixed item that could prevent a fall, despite wearing a harness.

Final thoughts on land owner liability

Recently Cushman Wakefield Debenham Tie Leung Ltd, was fined £1.3m for breaching health and safety laws, after high winds ripped off the wooden lid of a water tank located on the roof of a building that they were managing, killing a pedestrian. This was a shopping centre in Wolverhampton.

The coroner raised concerns with the RICS over surveying practices covering routine inspections. This has heightened the risks regarding the actions of third parties such as MNO contractors on our own clients' sites.

I understand that the RICS is soon to publish a 5th edition of its own guidance note on 'Technical due diligence for commercial property'. I would hope that it includes telecoms installations.



conflict, and could give rise to unwelcome and unnecessary legal proceedings and reputational risk.

Housekeeping

It only takes one serious incident to get the industry to sit up and take action - or so we thought. We have seen reports of an incident where one of the major MNO's contractors left a wooden cable drum on the roof of a building. This was blown off in high winds and fell on to the roof and rear window of a police car parked below!

It is not uncommon to find equipment cabinets with doors that have been ripped off their hinges in high winds, or where the hinge bolts have become detached, leaving the door loose at the mercy of the wind. In the example shown, we were fortunate to have identified this risk and removed the door to a safe place before winds blew the door off the roof. Enquiries with the operator confirmed that this risk had been highlighted to them by the last contractors visiting the site, but they had not yet actioned the remedial works. I will not comment further.

Despite this we are seeing an increase of incidents where contractors have failed to remove rubbish from, or have abandoned apparatus on the site. It is not unusual to find abandoned antennas, air conditioning parts, or other heavy or bulky items pushed under the raised steel grillage for the cabin, or plastic wrappings, food packaging, sections of cable tray, or feeder cable hidden in between water tanks in the plant rooms. The 2 photos show abandoned old style 3G antenna hidden underneath MNOs cabin, and abandoned antenna support brackets and concrete upstand caps similarly hidden.



carry out works directly above children's' play areas, insisting that the works could be carried out without the need for drop zones or catch netting.

The photograph on page 51 shows an example of poor design, where antennas overhang a children's playground, requiring the area to be shut off whenever work is carried out. The playground looks like the perfect target, for someone to drop something onto it! This can create additional work for the council to liaise with tenants and residents, to make working safe.

The requirement for drop zones could also impact upon occupiers of buildings being able to access their own home or office. This is clearly an unacceptable burden, but MNOs are still designing installations that bring both parties into





IFRS16

Imagine finding £1billion of liabilities down the back of the sofa

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Imagine waking up to discover a £1b liability you didn't know existed. Another trick by money scammers? Well no, this one comes courtesy of new accounting standard IFRS16, and the global bill is estimated to be over £2tn, not a paltry £1bn. In this first of 2 articles, Chris and Brian de-mystify IFRS16 – something you may have heard about already, but are about to hear a whole lot more in the coming months.

Q1 – what is IFRS16?

IFRS16 Accounting for Leases is a new accounting requirement issued by the International Financial Reporting Standards. IFR16 affects most types of lease, but in this article, we will focus on property.

Sounds dull? Possibly, but this is the biggest change in property reporting in a generation. All those involved in property need to have an understanding, particularly at a senior level – and certainly anyone reading this journal.

Q2 – what does IFRS16 require that is so different?

Readers will be very familiar with the need to put freehold and long leasehold assets on the balance sheet. For the first time, operating leases will no longer be 'off-balance sheet'. That includes leases of offices, warehouses, retail units, in fact most formal lease agreements involving land and buildings. For example, a lease of an administrative office, library building or a community centre will be classified as an operating lease in all but exceptional circumstances.

Q3 – who does it affect?

It affects almost all UK central and local government bodies – in fact, all private and public sector entities that use international financial reporting standards to prepare their financial statements. That includes all councils.

This is a very broad spectrum of organisations, and while IFRS16 applies

to almost all types of operating lease (including equipment, vehicles and even photocopiers), the standard will have the largest impact on councils where they occupy properties under operating leases.

Q4 – when does it apply?

IFRS16 is designed to be mandatory for accounting periods that commence from 1 January 2019. However, the implementation has proved so complicated that the CIPFA LASAAC Local Authority Code Board has deferred the effective date of implementation of IFRS16 to 1 April 2020.

Does that kick IFRS16 into the long grass? We think not, and nor does CIPFA and the Local Authority Accounts Advisory Committee (LASAAC). It just gives some breathing space to get systems set up, data collected, and calculations tested. In other words, you have time to prepare.

Q5 – how big a change?

Within the UK, some estimate there are 75,000 leases in the public sector that could be affected – but the government's



Chris joined Montagu Evans in 2017 with over 13 years' experience at BNP Paribas Real Estate, covering lease re-gears, surrenders, surplus site sales and strategic occupier-based advice. Chris developed an expertise in IFRS16 through this work and has further developed his knowledge since joining the Development & Valuation Consultancy team at Montagu Evans. Chris is currently investigating the revaluation aspects of the new lease accounting regulations.

Brian is a regular contributor to ACES' Terrier and has to date successfully hidden the fact that he has worked for 2 of the 'Big 4' accountancy firms. His career path also includes working within local government and running public sector consultancy businesses. He is now an independent consultant and has been a member of the RICS Public Sector Group for 10 years.



Financial Reporting Advisory Board thinks it is many more.

Those estimates are for arms-length third-party leases only; there is an unanswered question whether property leases between Crown bodies should also be included – for instance, where public sector bodies share space as a result of the local One Public Estate programme.

Q6 – how do you initially calculate IFRS16 liabilities and asset values?

There are 2 measures - lease liability and asset value of the lease. Lease liability is initially measured by calculating the present value of lease payments over the term of the lease. This simple statement raises many questions – such as what rate of interest should be used when discounting future rent obligations, how do you treat rents linked to indices, what about expected rent reviews and what do you do about break clauses?

In the first year, your finance team will ensure that the liability created is exactly matched by a 'Right of Use' asset value to keep the balance sheet literally in balance.

Although that sounds straightforward, in order to calculate the IFRS16 lease liability in the first place, some leading accountants claim they need over 80 data points for more complicated leases – such as rent free allowances, extension options, break clauses (and any penalties) or service concessions in PFI contracts.

Q7 – are there any differences in calculating IFRS16 liabilities and asset values in subsequent years?

The good news is that any re-calculation of IFRS16 liabilities in subsequent years follows the same principles as the first year.

Unfortunately, it gets more complicated when assessing asset values, which is likely

to impact the property team. For year 2 onwards, the latest interpretation of IFRS16 requires that if the Right of Use Asset value using RICS Red Book principles is materially different to the Right of Use Asset based on the lease liability 'cost' basis, then that Red Book figure should be used. If the difference is not material or not corrected by market rent reviews in the foreseeable future, then



a revaluation is not required. Confusing? Yes! It also creates a chicken-and-egg situation that means property professionals will only know if there is likely to be a material difference by comparing passing rents with market rents and taking into account factors such as lease length and fixed uplifts. For specialist properties, this will be difficult and may require a comparison between cost-based Right of Use Assets and DRC valuations up to lease expiry.

Q8 – what, if anything, should I do now?

As you have seen, IFRS16 is complicated, but at the same time provides a great opportunity for finance and property teams to work in collaboration.

Our advice to property professionals is to talk to their finance colleagues – it may just be around the quality of data, whether there are gaps and, even if not, how reliable it is.

Or discuss the implications for properties where passing rents are very different from market levels. As we have seen, this creates a materially different valuation.

Just start the conversation!

Summary

In part two, Chris and Brian will look beyond the basics to demonstrate how IFRS16 assets and liabilities are calculated and the role of public sector professionals. They will also address wider questions such as:

- What does it mean for day to day asset management and data management?
- How will this affect strategic asset management?
- How will this affect programmes such as One Public Estate?
- Are there implications for a council's commercial investment strategy?

In the interim, if you have any specific questions you want to raise, please contact Chris or Brian directly. Depending on the nature and number of queries raised, the authors will include coverage of the queries in the second article.

Ed – note that public sector surveyors also need to give due attention to all CIPFA guidance on this subject.





David is an authorised High Court Enforcement Officer with over 35 years' experience in specialist evictions and enforcement. He is the director for corporate governance and compliance at The Sheriff's Office and regularly works with the National Eviction Team, both companies being part of High Court Enforcement Group.

He has a wealth of experience in dealing with high profile enforcement operations and has planned and led operations to remove demonstrators from complex locations, including St Paul's Cathedral (OCCUPY!), Admiralty Arch, Parliament Square, Bexhill-Hastings by-pass, nuclear power sites and numerous fracking sites, including Balcombe.

REGAINING POSSESSION

The enforcement of compulsory purchase orders

David Asker david.asker@hceggroup.co.uk

Following his presentation at the ACES National Conference 2019, David provides an insight into the enforcement of CPOs, explaining the precise differences and police involvement in the 3 types of possession action.

There are 3 main types of possession action relating to compulsory purchase orders (CPOs):

1. Compulsory purchase orders under a warrant
2. Writs of possession to evict trespassers, including travellers
3. Evictions at common law - trespassers on land (NOT in buildings) may be removed by the landowner or their agents using reasonable force - Halsburys Laws of England, 4th Edition, volume 45(2), p1400 Para 522.

The reason why options 2 and 3 might be required is that, once the CPO warrant has been enforced, the Authorised High Court Enforcement Officer (AHCEO) cannot re-execute the warrant if the evicted persons return to the land, or if other persons arrive and enter the land and refuse to leave.

In these circumstances, the statutory authority to whom possession was given (or their agent) must either use common law to remove the trespassers, if appropriate, or they must obtain an order and a writ of possession, which the AHCEO can enforce.

The CPO warrant

In order to enforce the removal of persons from land and/or premises under a CPO, it is necessary to issue a warrant. The warrant must bear the seal of the statutory authority

and be appropriately signed. It must be addressed to the specific AHCEO to whom it is issued.

The AHCEO should then undertake the planning and preparation, involving all stakeholders, of an operation which is compliant with legislation, including the Human Rights Act 1998 and health & safety risk management (Health and Safety at Work Act 1974). Their plan should also incorporate measures agreed with the statutory authority designed to maintain possession post-eviction.

The operational planning process will cover the following areas:

- Identification of land and premises
- Health and safety hazard mitigation planning
- Training: responsibilities and capabilities
- Insurance
- Reputational care and consideration – media policy (needs support from client).

With regard to the identification of land and premises, it is imperative that the AHCEO be issued with suitably large scale maps in order to be able accurately to identify the extent of the land, with survey points pre-marked on the ground if possible, or perhaps undertaken during the



A writ of possession, on the other hand, confers extensive powers upon the AHCEO, including the right to use reasonable force and a statutory requirement for the police to assist (as set out in the Courts Act 2003, Paragraph 5, Schedule 7, of s99), extending to criminal offences of obstruction with arrest sanctions; s189 of the Courts Act 2003, amends s10 of the 1977 Act so that a person is guilty of an offence if he resists or intentionally obstructs any person who is an enforcement officer, or a person acting under the authority of an enforcement officer, and who is engaged in executing a Writ issued from the High Court or a county court warrant.

In the third type of possession action, acting without a writ under Common Law again enables the removal of persons using reasonable force, but here the position of the police must be considered carefully before choosing this option. The police's role here is to maintain the peace, which could mean that they might consider any substantial use of force by the enforcement team to be an affray and therefore could stop the enforcement from proceeding that day.

Vacant possession - the definition

Not only must all persons and livestock be removed, but the owner of the land must be able to enjoy the use of the land without let, hindrance or, it may be argued, any threat of hindrance.

For that reason, the site should be secured, and this is the client's responsibility. The AHCEO can delay formally handing vacant possession to the client until the site is secure from further trespass by the persons evicted. The AHCEO cannot leave the writ unenforced and thus "open" for further enforcement "just in case" other persons turn up to occupy the land.

If it does transpire that the site is reoccupied and the client requires further enforcement under a writ of possession, the writ is requested from the Court Issue office using forms N293A (where the possession order is awarded in the County Court) or PF86A (awarded in the High Court). The writ itself is Form 66 and it must be lodged with the AHCEO to whom it is addressed.

Assistance

If you would like HCE Group to assist you with the enforcement of a CPO, please contact them on 01792 466771.

enforcement operation.

Protestors frequently take advantage of highly skilled pro bono legal representation, so it is imperative that the enforcement of the CPO warrant (or indeed writ of possession or eviction at common law) is undertaken precisely within the area set out in the schedule of lands referenced in the warrant or writ, and is thus lawful.

Specialised insurance is essential, particularly when working at height or in confined spaces. We find that some enforcement officers/firms have insurance cover just for rescue operations, which is NOT appropriate. The removal of resisting protestors is most definitely not a rescue!

Who is responsible?

The AHCEO is wholly responsible and personally liable for executing a warrant issued under a CPO, and a writ of possession. In the case of a common law eviction, the enforcement officers act as agents of the landowner. The AHCEO's response team's responsibilities are to:

- Undertake an initial site assessment
- Conduct operational planning
- Use standard operating procedures to ensure regulatory compliance
- Publish the risk assessment and method statements
- Consider public order risks and proportionate mitigation measures, through liaison with local or county police
- Manage any protest activities
- Maintain reputational care and management standards
- Deliver safe, proportionate, effective and rapid eviction.

Reasonable force and police assistance

The warrant issued to enforce a CPO enables the AHCEO to remove persons, using reasonable force. However, it does not enable direct assistance from police, whose role is to maintain the peace and prevent criminality.



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Gilian set up Gilian Macinnes Associates in 2016 and has advised many local authorities in relation to developer contributions, CIL, infrastructure delivery, viability policy and approaches, planning service reviews, transformation programmes and supplementary planning guidance. She works with local authorities and delivers viability training courses for local authority planners and has been an expert speaker/trainer on the PAS Permission in Principle, CIL and viability seminars.

Gilian was a member of the government's CIL Review Panel (2015-2016) and a member of the Pre- NPPG Viability Technical Expert Panel. She is a regular contributor to the Planning magazine.

CIL REGULATIONS

Community Infrastructure Levy Regulation: Changes - Be careful what you wish for!

Gilian Macinnes gilian@gmacinnes.co.uk

Gilian spoke at 2018 ACES National Conference in Cambridge. As changes keep coming thick and fast to the planning system, Gilian is ideally placed here to update on recent changes to CIL regulations.

Consultations

The changes (1) to the Community Infrastructure Levy Regulations 2010 (as amended) have been a long time coming. Following the Community Infrastructure Levy (CIL) Review Report 2016 (2), the government, following budget announcements in 2017, undertook a number of consultation and responses to the consultations, to determine the future changes and direction of developer contributions. The MHCLG started the consultations (and responses) in March 2018 (3), responded in October 2018 (4), undertook further consultation in December 2018, and responded in June 2019 (5), leading to the amendment to the CIL regulations being published in July 2019, which are now in force (1 September 2109). Few of the CIL Panel Review proposals were taken up, and sadly, not the ones recommending the simplifying of the Levy stripping away the reliefs and exemptions, but there have been notable changes that will affect the operation of both the CIL and planning obligations under s106 of the Planning Act 1990 (6).

Changes

These included a welcome change to the indexation, providing a BCIS index that is published and with the index application dates specified and set nationally, for use in the CIL formula, to provide transparency and consistency across the country.

There are also changes to penalties for failure to submit commencement notices, and technical changes to clarify the approach and calculation of CIL for s73 planning applications. However, the most significant changes, which I have pressed for over a number of years, including as part of the CIL Review Panel, are - the

removal of the pooling limitation, which limited the number of times a planning authority could grant planning permission based upon that s106 planning obligation to 5; and the removal of the Infrastructure Funding (Reg. 123) List.

The pooling limitation on the use of s106 obligations had the potential to get in the way of local planning authorities delivering growth with infrastructure, and of developers securing planning permission. The limitation could result in there being no developer contributions mechanism to secure mitigation that was necessary to grant planning permission. The further away from 6 April 2010, the more of an issue this became. This pooling limitation was not just at risk of affecting local authorities that had not developed a CIL, but also those that had large and strategic sites which had been zero or low rated, as the majority of the infrastructure was to be secured through s106 planning obligations.

In my planning career, it has been all too familiar a story that planning permissions are not built out on the first or second planning permission, but often that there are numerous consents, all adding to the jeopardy that there would be none left in the pool to secure the s106 obligation to mitigate the impact of the development. So, the removal of the pooling limitation should remove the risk to the delivery of growth with infrastructure. It should be said that there are many that will think "great, no need to bother with CIL - back to the ability to collect a roof tax, develop a s106 tariff". This is not the intention of the removal of pooling and the government has made it clear in the Planning Practice Guidance (7) that the legal tests set out in the CIL Regulations 2010 (as amended) (8) need to be met.

“A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- (a) necessary to make the development acceptable in planning terms*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.”*

These tests, and requirement that it is directly related to the development in particular, prohibit the roof tax approach. In addition, the Supreme court case Aberdeen City and Shire Strategic Development Planning Authority v Elsick Development Company Limited (9) stated that planning obligations (s75 in Scotland is the equivalent of s106 in England) should not be used for strategic infrastructure. The infrastructure had to be directly related to the development. *“a planning obligation, which is to contribute funding, to be a material consideration in the decision to grant planning permission, there must be more than a trivial connection between the development and the intervention or interventions which the proposed contribution will fund.”*

Therefore, there should not be a free for all on the use of s106 and it should be used for infrastructure that makes the application acceptable in planning terms. My concern, however, is that the removal of the pooling limitation may have been akin to an announcement to all very financially stretched public services that there is a new income stream available. There is a very clear push by education and health services, in particular, to secure developer contributions, and s106 in particular, with the removal of the pooling limitation. The document provided by the Department for Education (10) does state that the legal s106 tests need to be met and appears to appreciate that the local planning authority may have other spending priorities e.g. affordable housing and transportation.

“We advise you to work with local planning authorities in devising their approaches to securing developer contributions, to consider the most appropriate mechanism (s106 planning obligations and/or CIL) to secure contributions from developers towards education alongside other infrastructure funding priorities.”

However, in relation to health services, I was concerned to hear that NHS (11) is seeking to fund A & E staff (not buildings or

facilities) through developer contributions, on the basis that new housing means more people, and therefore more demand on the acute hospital A & E services. This to me is a step so far away from the purpose of developer contributions for infrastructure to mitigate the impact of additional growth, to create a place and a community, that it should be strongly resisted. Has my desire to get rid of the pooling limitation that was standing in the way of direct mitigation, the provision of place making infrastructure, resulted in this? If so, I am regretting it.

Infrastructure Funding Statements

The other particularly significant change the CIL regulations have introduced is the removal of the need for local authorities to develop an Infrastructure (reg. 123) list; the introduction of the Infrastructure Funding Statement (IFS) will hopefully bring back the focus on necessary mitigation and place making infrastructure, and not revenue funding for a wide range of public services. However, it will be up to each local authority to specify what their delivery priorities are, to manage infrastructure and public service providers expectations.

I championed the removal of the reg. 123 Infrastructure list as it was a list that was not what the local authorities were going to spend their CIL on, but might spend their CIL on, and they could spend it on infrastructure not on the list. Therefore, the list achieved nothing, except it did serve to trip everyone up, in that whatever was on the list you could not use s106 or s278 of the Highways Act to secure. It will not be missed. It is worth commenting that the government has also been clear that there is no problem in using s106 and CIL for the same infrastructure project. S106 that meets the tests can be supplemented to expand the infrastructure to serve a wider range of developments through CIL. This change can only be a good one to achieve the delivery of infrastructure to support the growth of the area.

The Infrastructure Funding Statement was originally in the consultation aimed at local planning authorities, not county councils, but the regulation brought in the requirement that all planning authorities and county authorities have to publish an IFS before 31 December 2020. The IFS will fulfil a number of functions, not least ensuring that all local authorities

are transparent in their reporting of the contributions received through s106 and CIL, what they have spent, and on what. There is also the requirement that they set out what their future spending priorities are. These are not fixed as we all know that infrastructure funding, particularly from central government, is a changing picture, but whatever the source of funding, communities will learn what the infrastructure spending priorities will be. It will be through Infrastructure planning and the development of the IFSs that the focus can be on the delivery of infrastructure to support growth, and creates places people want to live, work and play.

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Introduction to the RICS APC

Jen Lemen - jen@property-elite.co.uk

Written from the perspective of the candidate, Jen gives a very practical picture of the APC process, which will help candidates, their employers, counsellors and supervisors, who all play a part.

Jen is a co-founder of Property Elite, Chartered Surveyor and RICS APC assessor. She is also an experienced property consultant, with FRICS status and is a RICS Registered Valuer, with over 10 years' experience working in the commercial property sector.

She has extensive experience in providing training services to students, RICS AssocRICS, APC and FRICS candidates and corporate clients, together with academic experience as a Senior Lecturer at the University of the West of England, Lecturer at the University of Portsmouth, and Associate Tutor at the University College of Estate Management.

What is the APC?

You need to pass the Assessment of Professional Competence (APC) to become a chartered surveyor - a Member of the Royal Institution of Chartered Surveyors (MRICS).

Through assessment of a variety of technical, professional, interpersonal, business and management competencies, the RICS aims to ensure that you are sufficiently:

- Competent
- Professional.

There are many reasons why you may want to become chartered:

- Personal pride
- Recognition
- Professionalism
- Career progression.

Who is involved?

The candidate - the APC is all about being a self-sufficient property professional - you are responsible for the process from start to finish.

The employer - their support will be invaluable to get the practical experience you need. You will want to complete a training/action plan with their input.

The counsellor - a friendly chartered surveyor who will support you through your APC journey. He or she should be a senior colleague or another qualified surveyor, who will sign off your final assessment submission.

The supervisor - this is likely to be your line manager or another senior colleague, who will provide regular support and guidance to ensure you gain sufficient relevant experience. You do not need to have a supervisor and they may also act as your counsellor.

The assessors - you need to show them that you are both professional and competent and give yourself the best possible chance of APC success.

What are the APC competencies?

The APC competencies sit within the relevant land, property or construction pathway and are split into 2 types - mandatory and technical:

- Mandatory competencies are non-technical skills, which are a requirement across all pathways
- Technical competencies can either be core or optional. These relate to the specific requirements of your chosen pathway and reflect your work-based experience. Examples include purchase and sale; landlord and tenant; and leasing and letting, which all sit within the commercial property pathway
- Remember, if you want to become a RICS Registered Valuer, you will need to take the valuation competency to level 3 (or undergo further assessment to sign up at a later date).



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Depending on your choice of competencies, you will need to attain one of 3 levels:

- Level 1 - knowledge and understanding. This is all about explaining what you know, through your university studies, distance learning, work experience or CPD activities
- Level 2 - application of knowledge and understanding. This goes one step further and requires practical examples of how you have applied what you have learnt
- Level 3 - reasoned advice and depth of knowledge. This is the pinnacle of demonstrating competence and requires you to have given reasoned advice or professional recommendations to clients. You should be self-sufficient with minimal supervision, i.e. a safe, professional and competent pair of hands. This will require you to explain specific examples in your final assessment.

Which assessment route is right for me?

There are various different routes to qualification, although most candidates generally do so within 6 months to 5 years.

The route you take depends on your academic background, relevant experience and other professional body memberships. You may need to undergo a period of structured training or submit your submission in advance of the application window for a preliminary review by the RICS.

What does the final assessment involve?

Your final assessment includes a written submission and face-to-face interview.

You will apply for your final assessment through the Assessment Resource Centre (ARC) when your final submission documents are complete. Newly enrolled candidates will submit using ARC, whereas there are transitional arrangements in place for existing and referred candidates (known as 'in flight') using the MS Word-style templates.

The RICS has specific periods during the year when you can apply for final

assessment, so make sure you are prepared well in advance and aware of the application periods from the RICS website.

Your final assessment submission will include the following; candidate details - summary of experience, case study, CPD record and ethics certificate.

We're sure that we don't need to tell you this, but make sure that your submissions are entirely your own work. RICS uses a plagiarism detection system called Turnitin, which is also used by many universities. Don't get caught out. Before submitting, carefully proofread your submission a few times. Get as many people as you can to do the same.

Once submitted to the RICS through ARC, your documentation cannot be changed. There is nothing more frustrating than finding a spelling error after you click submit. Your submission is your first chance to make a good impression on your assessment panel, so make the most of it by providing neat, professional and coherent documentation.

The final assessment submission needs signatures from a proposer and 2 seconders. At least one needs to be FRICS and no more than 2 must be from your employer. This can often be the most stressful part of the submission process if left until the last minute. We recommend obtaining the signatures well in advance of the application window.

What will happen during my interview?

Four weeks prior to assessment, you will be emailed a date, time and assessment centre location based on your indicated preferences. Check this carefully. There's nothing worse than turning up on the wrong day or time by accident.

If you wish to defer your final assessment, you have a 14-day period to do so after applying, without charge. After this, it will cost to defer until the next assessment session. Once allocated, you can only request a change to the time, date or location in extenuating circumstances.

Only apply if you feel ready - don't be pressured into doing so. It is better to gather additional experience to meet the required competency levels, rather than fail and have your confidence knocked. The right support at the right time will help you decide when you are ready.

Where can I find free support?

If you would like to discuss any aspect of your RICS APC confidentially, just fill out the form on our website (<https://www.property-elite.co.uk/free-consultation>) as we provide each and every candidate with a 15-minute consultation.

You can also access substantial free support resources on our website (<https://www.property-elite.co.uk/free-resources>) and in our blog (<https://www.property-elite.co.uk/blog>).

JOHN READ, NORTH EAST BRANCH

The North East Branch held its summer meeting on 5 July in the Council Chamber, Rotherham Town Hall, hosted by Rotherham Metropolitan District Council (RMBC). The meeting was attended by 27 delegates, which was a lower number than usual, but did include some new faces and ACES President Graeme Haigh.

In the absence of a permanent Branch Chair (applications and nominations accepted), we continued our practice of an interim chair for the day, with Dale Clark of Network Rail taking on the role for the first time (and a great job he did too...).

The day followed our usual and successful format, providing plenty of opportunities for networking, but centred around a programme of cost effective and relevant CPD as outlined below.

Paul Woodcock, Strategic Director Regeneration and Environment at RMBC - Introduction to Rotherham: regeneration and growth

Paul outlined the geography of RMBC that sits in the heart of the Sheffield City Region and gave a resume of some of the excellent projects that had contributed to the success of the district, with the fastest growing economy in Yorkshire for the fourth quarter in a row. He outlined how the council wants to build on this success by ambition and exploiting opportunities for 14,000 new homes and 10,000 new jobs. Contributing towards this success was a combination of factors including partnership working with the private sector, an award-winning planning service, and collaborative working across the housing and asset sectors.

Paul outlined some development and regeneration initiatives, which could not have been delivered without working with the estates team, including:

- Bassingthorpe - a new community to be delivered working with the private sector landowner, to deliver 2,552 homes on 9.5 ha (the council owns 27% of the site)
- Waverley – a 800 ha centre of excellence and catalyst for

innovation-led manufacturing across the Sheffield City Region

- Rotherham Valley Country Park, with a £5m investment in a new caravan and camping park to help boost the visitor economy.

Colin Blackburn Assistant Director Housing, Infrastructure and Planning at Sheffield City Region Combined Authority - Sheffield City Region: policy and investment

Colin highlighted the integrated approach taken by the combined authority, outlining its governance arrangements and the roles and responsibilities of the 9 districts covered by the authority. The city region is at the forefront of innovation and a major driver of economic growth, with an economic output of more than £31bn p.a., 68,000 businesses and world-class specialisms in advanced manufacturing.

Colin outlined some of the achievements of the authority and its partners including the creation of over 60,000 jobs, 7,033 new homes, 11,126 new learners assisted, 18 miles of new roads, and 44 miles of new cycleways.

With over 9,000 public assets in the city region, Colin outlined the importance of working together and how the authority was developing a tool to allow forward strategic planning, to ensure that partners could work together to improve asset performance and maximise return when assets were released.

Alex Willis and David Couch of BNP Paribas - Development viability

Alex and David did a double act outlining recent changes to the National Planning Policy Guidance and the new RICS Guidance (Financial Liability in Planning: conduct and reporting, May 2019). They explained the key aspects of a viability assessment and how the new planning guidance looked to move viability away from the planning decision stage to the strategic plan making process. They explained that despite this, they felt that there would always be a role for viability appraisals at the application stage, due to the individual circumstances of each site and development. There followed

a question and answer session and this topic attracted a lot of questions and observations from the audience, demonstrating the importance of viability appraisals in the planning process and the need for planners to seek valuation advice from the in-house estates team or elsewhere.

Graeme Haigh, ACES National President and Head of Property at the Isle of Wight

Graeme outlined his work within ACES his priorities of growing membership, and promoting sharing and collaboration between members. He talked about the Business Plan, the launch of the new look Terrier, the jobs page, Award for Excellence and the forthcoming Presidential Conference in Cowes. We also discussed the format of meetings and the role of networking and discussion, and CPD. Although we were already over-running a little, that did not stop a healthy discussion about ACES' matters, which continued as Graeme worked the crowd over an excellent buffet lunch provided by our hosts.

Edward Feather, Associate Director Pugh & Co Ltd - Auction market in Yorkshire and the North East

Edward explained that Pugh & Co is the largest auctioneer outside of London operating in the north of England, with core business in Yorkshire and the North West and with auction houses in Manchester and Leeds.

He gave a general overview of the auction market and performance in the Yorkshire and North East regions. He went on to outline the benefits of auctions over other methods of disposal and gave several diverse examples of properties that had been sold by his practice, and why they were suited to the auction market.

At the end of the presentation, Edward went back to some of the property examples he had given earlier, seeking some audience participation to guess the sale prices achieved for these lots. He was quizzed for more information about each property, bringing out the valuers in the audience and after a few lucky estimates

(or wild guesses), the session moved more towards a game of 'Play your cards right'. It did, however, introduce a bit of fun in the graveyard slot and helped demonstrate how the auction process can achieve excellent results. Some prices appeared well above what would be expected as market value.

Paul Smith Head of Asset Management at RMBC - Worksmart

Paul gave a presentation on the implementation of agile working at Rotherham, covering building design principles, fit out and IT issues, and the experience and achievements of the Riverside House scheme, including a

guided tour of the property at the end of the meeting.

In his presentation, he outlined the types of workers included in the 1,300 that were housed in this building and how this influenced the space and desk allocations, which ranged from a fixed desk for a small number of fixed workers, to one desk per 8.5 sq m allocated on a 5-desk per 10 employee basis for flexible workers, and one desk per 4 mobile workers. He also gave a useful summary of some of the HR and people issues that arose and how staff had resisted, and then accepted, the implementation of agile working.

Paul gave some of the outcomes of the project that included:

- Reduction in town centre floor area from 45,000 sq m to 30,000 sq m
- Reduction in building energy costs from £887,000 to £396,000 p.a.
- 50 workstations for every 100 employees.

The next branch meeting is currently in the planning stage for a venue in North Yorkshire in November 2019; this will be chaired by another member of the branch executive - unless we can secure a new Branch Chair before then.

ALAN WHARTON, LONDON BRANCH

Meeting held on 5 July

The meeting was held at Lendlease offices, Elephant Park, Southwark, chaired by James Young. Unfortunately, only 6 members were able to attend the site visit. However, there was a good presentation which featured a talk on health and safety, and mental health and well-being in the construction industry. The company also illustrated that it sees its role as delivering essential infrastructure, not just volume construction of apartments. The conversation developed to consider mental well-being as influenced by physical working conditions, with the increased prevalence of hot-desking, which, together with more home-working, can increase a sense of isolation. It can make it more difficult for organisations to spot the mental health needs of their employees.

Chris Rhodes and James Young agreed to write a note for the Terrier about the visit, in collaboration with Lendlease.

The attendees considered the reasons for such a low attendance. It may be that the agreed change of date, close to the end of school term, and late confirmation of the detailed programme, could have been contributing factors.

ACES matters

In relation to the forthcoming Annual Conference in Cowes, the Secretary advised that a member had offered to sponsor a

delegate, to include the conference fee, accommodation and transport, up to a maximum of £500. He was working with the member concerned to give effect to this very generous gesture.

It was agreed that London Branch would invite nominations from the branch members for 2 further delegates, who could be potential new members, covering the full conference package, but not accommodation or travel. 14 days would be allowed for nominations which would be on a first-come, first-served basis. The 3 sponsorship opportunities could be offered at the same time.

It was noted that there is a half-day CPD conference on Affordable Housing on 10 October hosted by Trowers & Hamblins. Jeremy Pilgrim will investigate the opportunity, to offer the other half-day as an ACES-sponsored conference addressing London issues, with a fee of £10.

RICS matters

Although there was no RICS representative present, a member advised that some major management changes had taken place within RICS. This might present an opportunity to promote the role of central/local government and the work of ACES.

Exchange of Information

- One member noted the high

quality of CPD events organised by Eastern Branch.

- A member asked if colleagues had experience of the Equivalent Reinstatement provisions of s5 Land Compensation Act. It was suggested this could be raised on ACES' Forum.
- One LA advised that advertisements were now published for a procurement partner for the London Cancer Hub (comprising 1m sq ft). The council has completed an industrial investment, and had succeeded in fully letting its high street portfolio. Although new senior officers have been secured, there are still problems recruiting property staff.
- One LA gave an update on the education portfolio work. He drew attention to problems with attracting contractor interest in the expansion of schools, and maintaining momentum on projects. He was also finding it challenging working within the prescriptive requirements of the Department for Education.
- One county council priority is negotiating sites for new schools from housing developers.

The next meeting will be held on 27 September at Kensington Town Hall.



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GILL BOYLE, NORTH WEST BRANCH

Meeting held on 26 July 2019

26 people attended the meeting, held at Kilhey Court Hotel, Wigan. There were a number of new attendees, some of whom were standing in for other members.

ACES National Issues

Trevor Bishop gave an update on national issues following the recent Council meeting held in York on 12 July [Ed – see full article in this edition of Terrier]. Key points:

- The Business Plan is ongoing. One of the main aspects is addressing how we can grow the membership. Branches are being allowed discretion on what they can charge new members for the first year
- Website rebuild – A firm has been appointed to rebuild the website, which should be operational by October/November
- Coordinator reports – All updated information on the topic areas are available to read on the ACES website and is well worth a read
- RICS Valuer Registration – Many members in the public sector are concerned that the way the system currently operates does not fully appreciate the role of the public sector surveyor, who does not normally undertake valuations for third parties. Jeremy Pilgrim is liaising with RICS to try to improve the position
- ACES Award for Excellence – it would be good to have nominations for projects in the North West
- Presidents Award – this is a new award for innovation within ACES that is designed to encourage focus on the ACES modernisation agenda, by recognising those who have made a significant contribution to achieving ACES' operational objectives. The award winner will be presented at the National AGM in Glasgow on 15 November 2019. It could, for example include our own branch's intention to re-structure our OGMs to make them more attractive and informative for members.

Workshop programme for 2019

The Branch is planning 2 workshops - one on asset valuations in September/October and another on viability in January/February. These will be hosted at Salford.

Professional matters

A question was asked as to whether anyone had received a request from Homes England regarding the repayment of grant. A member said she had received a request relating to projects (acquisition of properties) dating back to 2007; there would be no repayment as the properties have not been sold but if they are, then any receipt would be repaid. She added that a previous request from North West Development Agency (prior to its abolition) had been made relating to a property acquired with grant and this did result in a small repayment when the property was sold.

Telecommunications – it was noted that some authorities were still having problems with Internexus. It was reported that one council had reached agreement over siting of its equipment on council land; clarification is to be sought as to what had been agreed, likewise with other LAs which had made agreements.

The decision has been made by the Branch Executive to refresh the agenda and format of OGM meetings, in order to encourage more members to attend and focus more on professional matters, CPD and topics of interest, as opposed to administrative matters. A member suggested that we could use this time to agree policy positions on a range of subjects and maybe brainstorm the principles of the policy at the meeting. It was agreed that this was a good idea that we could incorporate into meetings, with the subjects being open for members to propose. It was agreed that the meetings fall into a revised structure, with the aim of completing ACES business within the first half hour.

It was agreed that we need to give sufficient notice of meetings that should invite members to suggest topics of interest for talks and presentation and matters that they feel are worthy of

discussion. The subject of any presentation or talk should also be included in the agenda.

It was reported that NHS England and NHS Improvement were merging and would cover all NHS estate services. NHS Property services and the various trusts would still operate as separate entities within this structure.

A member asked about the position of leasehold reform, to which ACES had responded to a government consultation paper on reform. It was likely that legislation would be forthcoming to require that the default position for house sales is freehold, but with a restriction on the level of ground rent that can be charged on leasehold flat sales. A figure of £10 a year has been proposed, but a House of Commons Committee report into the subject has suggested that a ground rent of this level is not worth collecting and it should therefore be a peppercorn.

Presentation

A presentation was given by Pugh & Co auctioneers, with Paul Thompson, Edward Feather and Paul Parker in attendance. It was very informative and included a useful question and answer session. Among the issues highlighted was the problem of whether to accept an offer on a property prior to auction. The speakers were asked about the challenges they may face when manoeuvring around local authority procedures, but they commented that they were well versed in dealing with these procedures. They also added that they could also ensure that property is not disposed of to a party that the local authority wants to avoid eg local speculators; this can be achieved by regulating potential buyers.

Other interest areas

WHY 'THE TERRIER'?

Betty Albon

People sometimes ask why ACES' professional journal is called 'The Terrier', so it was suggested that an explanation was published. Our resident etymologist, David Garnett, could make a far better job of it than your resident editor, but unfortunately, he is not too well at the moment. My best wishes and thoughts are sent with this explanation.

So why is ACES' professional journal named after a class of dogs?

There are actually some similarities between the dogs and the surveyors. A terrier is "a small dog breed originally used for turning out foxes and other burrowing animals" (very applicable for our advertisers the High Court Enforcement Group) and can be used to apply to surveyors for their qualities of "tenacity and eagerness".

I'm sure this isn't a question which ever occurs to strategic asset and estate managers working in the public sector, but it might be a bit of a mystery to other readers. Or do they just assume that we public sector surveyors are a bit quirky?

I've done a bit of research on the origins and meaning of 'land terrier' (if one can call checking in Wikipedia 'research'). It looks like the origin of the word is late 15th century French, from medieval Latin "terrarius (liber)", meaning "(book) of land" from the Latin terra 'earth'. "Terrier" in French refers to the feudal records

associated with the 'Ancien Regime', which as we all know, was the same feudal system that operated across much of Europe – including Britain – if I may be allowed to include the UK as part of Europe. Of course, all that ended in France when things got a bit revolutionary in 1789. However, in England, feudalism seems to run on, with the rich getting richer and the poor getting poorer, most of whom cannot afford their own bit of 'terre' these days.

The register of lands belonging to a landowner originally included a list of tenants, their holdings, the rents paid. It later developed into a broader description of acreage and extent, including details of boundaries. The earliest reliable records were made in around the mid-19th century. At this time, the tithe maps included details of the locations of all licensed properties. Church wardens are also required to compile and maintain a terrier of land holdings for their church; strange that licensed premises and places of worship are equally required to know

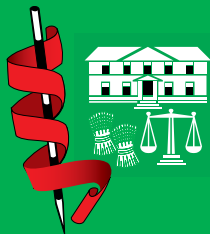
what and where their holdings are!

For public authorities, 'terrier' is the record of all their land and property holdings. While in the past that terrier record – both the basic facts of description, acreage, purchase details, size, location, tenant details and use, generally also recorded on a map – was kept confidential to each organisation. However, that is not the case in more recent decades, when through government initiatives such as One Public Estate, government requirements for transparency, estate rationalisation and collaboration, those terrier records are made available much more widely.

And of course, with the increasingly sophisticated methods of storing data in the last few years (big data, GPS, etc), "ACES Terrier" continues to be an essential tool for the modern asset manager.

ADVERTISING IN THE TERRIER

The Terrier is a good way to get your company known to public sector surveyors. ACES represents the chief estates officers and their staff, who are the property, strategic asset management and valuation professionals in public sector organisations throughout the UK. Membership includes the range of local authorities, the Government Office, fire, police and health authorities and the Valuation Office Agency.



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If you wish to discuss advertising please get in touch.

Betty Albon editor@aces.org.uk or Trevor Bishop secretary@aces.org.uk

Advertising rates for 2019/20 to remain the same



For 50 years until retirement Dave practiced as a surveyor in Lancashire and Cumbria, and worked for the DoE, Lancashire CC, South Lakeland DC and the NPS Group. He has written articles on surveying topics and work experiences, which allowed him to introduce some controversy, humour and fiction. <https://davidlewisogson.wordpress.com>

WINTER 2017/18: Due diligence

Dave Pogson

The Selwyn series is written specifically for the Terrier. Each story is a self-contained episode in the life of an early-retired council property manager from 2002 to the present day and beyond, as he continues to maintain occasional contact with his former colleagues from the fictional Herdwick District Council. The characters often present controversial and outspoken opinions on local and central government policy and practice. The stories are fictitious and occasional historical background details may have been changed to fit the chronology. The views expressed are those of the author, not those of ACES.

E-mail sent at 11:43 on 15 November 2017

Re: Property Group Christmas Lunch

Hi Selwyn,

As you know I'm been back at Herdwick District Council, but in my new part-time job as Client Property Manager, for the past 18 months since Jim retired.

I know that you're still interested in events within your old Property Group. There are big changes planned for us from April 2018. I'll fill you in on some of the details when I see you. Hopefully that will be at the Christmas Lunch on 15 December 2017 in the Wandering Tup in Shepdale town centre. Please let me know if you can come. There are still quite a few old colleagues here that remember you, who are looking forward to seeing you. Jim has confirmed that he will attend.

Best wishes, Farah

15 December came around quickly. The Christmas decorations lit up Sheepfold Lane, the main shopping street, on what was a very dark day. They were a credit to the town centre manager's efforts and gave the street a festive atmosphere, despite the clouds that threatened further rain showers. The town centre was full of

shoppers, but Selwyn still managed to find a space in the yard at the back of the pub, as most of the Tup's customers had walked there from the council offices opposite. Jim beckoned to him from the bar on the far side of the crowded room and gestured towards the pump marked 'Rampant Ram'. Selwyn nodded and mouthed 'a half' to him as he weaved his way through the throng, greeting old friends and colleagues. Along the way Farah grabbed his sleeve.

'Hello stranger. You haven't been to see me for quite a while.'

'I don't like to keep disturbing you now that you're back at work. You're a busy woman. But, I am intrigued. What are the big changes that you mentioned in your e-mail?'

'You've probably heard that the Property and Design Groups are being outsourced. Well things have moved on. The council ran a 2-stage tender. The first stage was to invite interest from outside firms and assess them on ability to do the job, and on quality. The second stage was to invite those that made it onto the 'quality' shortlist to bid on price, to see what each would charge for providing the combined service. The second stage bids have been evaluated and the council's Cabinet will formally approve the winner at next week's meeting. We expect to sign contracts in January.'

'What will happen to the current staff?'

'They will all transfer to the winning contractor under European TUPE rules, so their existing pay and conditions will be protected, at least initially.'

'When will the new contract start?'

'From next April.'

'Will you be transferring as part of the deal?'

'Not likely. When Jim retired the council merged the Design and Property Services Groups. Then they split the 2 manager's jobs into client and a contractor roles, ready for outsourcing the work. They put an architect

in charge of the contractor side to deliver the combined service and advertised for a client property manager to monitor the contract. I applied and was appointed to that job. When the outsourcing is complete, the council wants me to stay as the internal client manager to run the contract; checking that the contractor delivers what's required. That suits me better; I can still help Sadiq with our IT business for 2 days as my council job is only 3 days per week and the kids are now in school and nursery respectively, so I have more free time when I'm at home. It's working well.

'Who's the winning contractor?'

'I can't tell you that just yet. It's confidential, although I expect that you will soon know as the council still leaks like a sieve. I shouldn't be surprised if someone else whispers it to you before this meal ends today. Just as long as it can't be attributed to me.'

Selwyn felt good. The meal had been excellent. He'd stuck to orange juice after that first half of Rampant Ram, so as not to risk his driving license and he needed to stay alert for the opportunity that would likely occur at some point during the proceedings. He'd enjoyed catching up with Farah and his other ex-colleagues. Not surprisingly, the conversation had been dominated by talk of the outsourcing. All through the meal he had counted the pints that Eric from the Finance Group had been drinking at their parallel gathering on another table. Now, as most people were saying goodbye and drifting back to work, Selwyn saw his chance.

Eric stepped back from the urinal with his hands occupied, misjudged the step down and staggered slightly before catching his balance.

'I shouldn't have had that last pint, Selwyn.'
'You shouldn't have had the other 4 either,'
thought Selwyn.

He hoped that Eric would not be adding up any columns of figures at work later that day or there could be a bit of a hole in the council's finances. Not that there would be much work done by anyone that afternoon.

'Still working then? How's life in finance? You must be getting near retirement age now, surely?'

'Only another year near to go, thank god. Then you won't see me for dust.'

'I hear that you were on the evaluation panel for the Property and Design Service bids. It's all anyone can talk about on our table today. I'm glad that I'm retired and well out of it.'

'It's the beginning of the end.'

'Sorry, what do you mean by that exactly?'

'This is just between us, ok?'

He leaned across and whispered in Selwyn's ear, 'They are being recommended to award it to ...'

'And have they passed the due diligence scrutiny?'

'Oh yes. They are a big – well probably the biggest – firm of building, civil engineering and public sector service contractors certainly in this country and they are pretty big internationally too. They have a huge amount of central and local government contracts in place, as well as big contracts abroad. They already run prison services and hospitals and academies in the UK. The government awarded them another couple more contracts in November, which shows the confidence that Westminster has in them. But our Director of Finance covered his back. He thought that the checking was a bit above the skills of us mere mortals in the Finance Department, so he paid a small fortune in fees to a big city accountancy firm to advise the council. But these contractors are so big, so how could anyone doubt that they're financially sound?'

Selwyn thought that he detected a hint of sarcasm in that last remark but let it go.

'But why is a huge firm like that interested in little Herdwick District Council?'

'We asked that question. Lots of reasons. The official answers – they like to spread their interests across a lot of different sized contracts, to minimise risk and so protect their clients. The wide range of skills available across their numerous contracts means that they can move staff around where they are needed most and that benefits all their clients. Also, it helps their public image – they can claim that

they are putting something back into the community, if they assist small clients as well as large ones. They say that anything that adds to their size produces economies of scale, which means that they can pretty much beat any other competitor on price, so why shouldn't small clients benefit from that as well as big clients? They already have a regional presence, so they won't need a top management layer, as we can fit within their model. There you have lots of waffle reasons. And they claim that they can still make their margin, while providing savings for the council through some profit-share arrangement. It looks great in a bid statement. The councillors swallowed it. Farah spoke against it, but they just ignored her. It was the same in your day, wasn't it? The councillors always ignore the internal opinion in favour of the outsiders, especially when they've paid a fortune for that advice.'

'And the unofficial answer?'

'They want a toe-hold in this part of the north west. They're not really interested in the property service on its own – that's just a start. If they can show savings on costs for the council, and pump in staff from other offices to meet peak workloads to solve our recruitment crisis, then the councillors will think that they're wonderful. The contractor thinks that will open the door to more contracts for other services. Then they can take over the running of the whole council and then the word will spread out into other neighbouring councils. In a few years' time they expect to be running the whole county.'

Selwyn and Jim had followed Farah across to her room in the offices behind the town hall for a coffee. They closed the door behind them.

'I have my doubts about this whole thing but nobody within the council wants to listen to me. It could all end in tears. Luckily there's a need for an internal client manager role, so I'm fairly safe. However I still feel a bit guilty about the others who will transfer across. The risk to their pensions alone if they're transferred into the contractor's scheme must be a big concern for them.'

'I know how you feel Farah. I'd be just as concerned for them if I was still working. We can only hope for the best. Thank god that we're out of it, eh Jim?'

'Amen to that.'

It was another cold, wet January day and

Selwyn was lingering over his breakfast, trying to put off the time when he'd have to go outside to the car.

'Come on, let's get going. I got some vouchers for Christmas and I want to spend them in the sales. You can drop me off at the Sheepfold Shopping Centre and go for a wander round on your own, to see what changes have happened to your old property empire. Better still, ring Jim and ask him to join you. He's often at a loose end when he can't play golf in the winter. I know how much you enjoy chatting to him about the old days. I'll never understand how you can get so much pleasure from looking at those old buildings. Speaking of old buildings, it's almost the anniversary of the day when I met you walking up to Reservoir Cottage with your capacious briefcase. We can celebrate that with lunch in the Tup, when you've finished your tour of inspection.'

Selwyn smiled at his wife and reached for the remote to switch off the BBC news.

'I just like to see what changes are going on. I have so many memories tied up in those properties.'

As he pointed the remote, a familiar sounding name caught his attention:

'... the massive construction and public service contractor is on the brink of financial collapse. There are concerns for the fate of its employees and those reliant upon the pension fund which has a significant shortfall in its balances. It is likely that the receivers will be called in, if urgent meetings with the minister do not produce a solution later today. Questions are already being asked by the opposition party about what will happen to their existing public service contracts and why the government awarded further large contracts to them as late as last November, if their finances were as precarious then as is being reported now ...'

Selwyn pressed the 'off' button and walked through into the hallway to collect his coat and car keys. Perhaps he'd stick his head around Farah's office door, just for a couple of minutes while he was in Shepdale town centre, and get her take on the news. He could congratulate her on her astute assessment of the risk. It would be something to talk to Jim about.

'Hopefully the council still has time to pull back from the brink, he thought, 'while Jim and I, on the other hand, still have all the time in the world to dissect it over a pint of Rampant Ram in the Wandering Tup.'



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